DOCUMENT RESUME

ED 399 739 EC 305 075

TITLE	Individuals with Disabilities Education Act Amendments of 1995: Reauthorization of the Individuals with Disabilities Education Act (IDEA).
INSTITUTION	Office of Special Education and Rehabilitative Services (ED), Washington, DC.
PUB DATE	29 Aug 95
NOTE	79p.
PUB TYPE	Viewpoints (Opinion/Position Papers, Essays, etc.) (120)
EDRS PRICE	MF01/PC04 Plus Postage.
DESCRIPTORS	Access to Education; *Disabilities; Early Childhood Education; Early Intervention; Educational Improvement; *Educational Legislation; *Educational Policy; Elementary Secondary Education; *Federal Legislation; Federal State Relationship; Inclusive Schools; Laws; Parent Education; *Policy Formation; Teacher Education
IDENTIFIERS	Amendments; *Department of Education; *Individuals with Disabilities Education Act; Proposed Legislation; Reauthorization Legislation

ABSTRACT

This prospectus describes the U.S. Department of Education's legislative proposal for the reauthorization of the Individuals with Disabilities Education Act (IDEA), as reflected in two bills: H.R. 1986 and S. 1075. The report outlines the purposes of IDEA and its positive impact. The report then presents six principles of the Department's vision for IDEA: (1) align IDEA with state and local education improvement efforts, (2) improve results for students with disabilities through higher expectations and access to the general curriculum, (3) address individual needs in the least restrictive environment for the student, (4) provide families and teachers with necessary knowledge and training to effectively support students' learning, (5) focus on teaching and learning, and (6) strengthen early intervention to help ensure that every child starts school ready to learn. Specific proposals address the issues of assessment, individualized education programs, state performance goals, student evaluations, eligibility, federal and state funding formulas, record-keeping and paperwork, services for minority students, comprehensive support programs, the connection between families and schools, and safe and disciplined classrooms. Appendices include information on parents' rights and due process. (Contains 68 references.) (CR)

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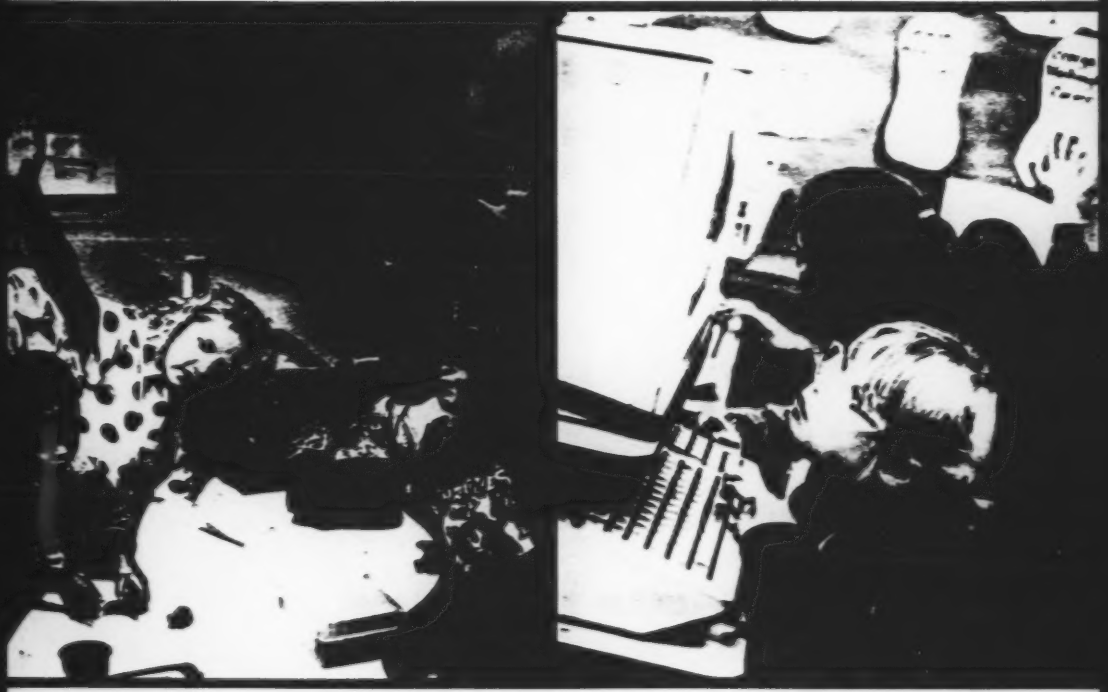
Individuals with Disabilities Education Act Amendments of 1995



Reauthorization of the Individuals with Disabilities Education Act (IDEA)

U.S. Department of Education

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HOW ONE SCHOOL IS IMPROVING RESULTS FOR CHILDREN WITH DISABILITIES

The Individuals with Disabilities Education Act Amendments of 1995 will help parents, teachers, administrators and students work together to improve results for students with disabilities.

We offer a portrait of a fictional school to show one of many ways that a school might create an effective learning environment for all students.

As Mr. Mason arrives early for an afternoon IEP meeting at the Thomas Jefferson Elementary School, he decides to visit his son Johnny's classroom. He's heard about the new teaching approaches that Johnny's teachers are using and he wants to see for himself how this is working.

He notices Johnny in a corner of the room with six other fifth graders who are thumbing through their notebooks to find their calendars. Johnny looks at his calendar and checks off yesterday's homework assignments. He then writes in today's homework assignments, prioritizes them, then adds his after school activities (soccer at 3:00, tutoring at 4:30).

In another part of the room, Mr. Mason notices a group of five students, including a girl in a motorized wheelchair. While the other students are talking about their plans for creating a bicycle trail in the nearby park, she is typing with one finger on a keyboard. When the students pause, she presses a button and the computer "says" what she just typed about the bicycle trail project.

Other students are scattered about the classroom in groups of four, revising letters to their representatives in the State legislature about the results of research they have been doing over the past few weeks. One group studied wetlands; another looked at the impact of the budget deficit on the economy and their future. In each group, students are discussing what position they should take and how best to present their research in order to persuade their legislator. Johnny's teacher, Mr. Taylor, is working with one group helping them to refine their arguments.

In reading each other's draft letters, the students are using a checklist of questions — which a second teacher, Ms. Stafford, has just discussed with them — to suggest revisions. Questions include: Does the letter present enough evidence to support the position/opinion? Does the letter State at least one opposing argument and does it adequately rebut that argument? These letters will go into their portfolios, which are part of the State-wide assessment. All students in the class are participating in the assessment, which is keyed to high academic standards.

Continued to inside back cover

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

AUG 29 1995 **THE ASSISTANT SECRETARY**

Dear Friend:

I am very proud to share with you the Department of Education's vision for improving educational results for children with disabilities through amendments to the Individuals with Disabilities Education Act (IDEA). The enclosed prospectus describes our new directions for the IDEA that are reflected in the Administration's legislative proposal, which was introduced in Congress this summer (H.R. 1986; S. 1075). Congressional action on the IDEA is expected this fall.

This is the twentieth anniversary of the IDEA, which has opened up educational opportunity for millions of children with disabilities. The IDEA has also provided support to families, schools, communities, and States in their efforts to improve education for students with disabilities through activities such as teacher training, development of technology, and promoting proven, effective practices. Because of the IDEA, results for students with disabilities have improved dramatically. Students with disabilities now complete high school, attend college, and become competitively employed at much higher rates than previously reported.

The legislative proposals described in the enclosed prospectus were developed after extensive discussions with parents, teachers, and others concerned with the education of children with disabilities. The prospectus explains the rationale for each proposal, provides relevant research references that substantiate the policy objectives, and supplies a centerfold guide to families on how these amendments affect children with disabilities and their families.

You are free to distribute copies of this document to your colleagues and friends. For further information, please contact Anne Barrett at (202) 205-9674.

Sincerely,

Judith E. Heumann

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202-2500

Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

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THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1995

Introduction

Many schools, school districts, and States throughout the nation are actively engaged in educational improvement. The U.S. Department of Education has forged new partnerships with States and communities to support their efforts to develop flexible, coherent, and comprehensive strategies for educational improvement based on high standards for all students. The Goals 2000: Educate America Act, the School–to–Work Opportunities Act of 1994, and the Improving America's Schools Act (IASA, the reauthorization of the Elementary and Secondary Education Act of 1965), promote these effective strategies based on raising academic and occupational standards, encouraging students to work hard to meet them, improving teaching, and strengthening parental involvement.

The reauthorization of the Individuals with Disabilities Education Act (IDEA) provides an opportunity to ensure that educational improvements for all children in fact include children with disabilities. By aligning IDEA with State and local school reform efforts, children with disabilities may participate fully in high-quality education with the special education and related services necessary for them to learn to challenging standards and achieve much more than they do now.

The Purposes of IDEA

The basis of the current IDEA, P.L. 94–142, was enacted in November 1975 and has undergone numerous amendments. The four purposes of IDEA are to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their particular needs; to ensure that the rights of children with disabilities and their parents or guardians are protected; to assist States and localities to provide for the education of all children with disabilities; and to assess and ensure the effectiveness of efforts to educate children with disabilities.

The right of children with disabilities to a free appropriate public education is grounded in the United States Constitution. Two landmark court decisions, *Pennsylvania Association for Retarded Children v. Commonwealth* (1971) and *Mills v. Board of Education of the District of Columbia* (1972), established that the responsibility of States and local school districts to educate individuals with disabilities is derived from the equal protection clause of the Fourteenth Amendment of the United States Constitution. The drafting of IDEA was guided by the principles of these court decisions and a recognition of the federal role in ensuring that all children with disabilities in the nation are provided the equal opportunity that the Constitution guaranteed.

Prior to the enactment of the law, one million children with disabilities were excluded entirely from public schools. The federal government plays a particularly important role in assisting the States in meeting their constitutional obligation to ensure equal educational opportunity for children with disabilities. In addition to safeguarding the rights of children with disabilities and their parents, the federal government supports State and local school efforts through fiscal aid to States and through development of the knowledge and practices necessary to ensure a free appropriate public education under IDEA.

This reauthorization is intended to build on the basic purposes of the law. Each student must be ensured a free appropriate public education. Each child's education must be determined on an individualized basis and designed to meet his or her particular needs, in the least restrictive environment. And the rights of children and their families must be ensured and protected through procedural safeguards.

Background

Reviewing the past twenty years, it is important to recognize the positive impact that IDEA has had on the lives of students with disabilities. Significant progress has been made and opportunities are now available to children with disabilities that were unavailable twenty, or even ten, years ago.

Conditions Before IDEA

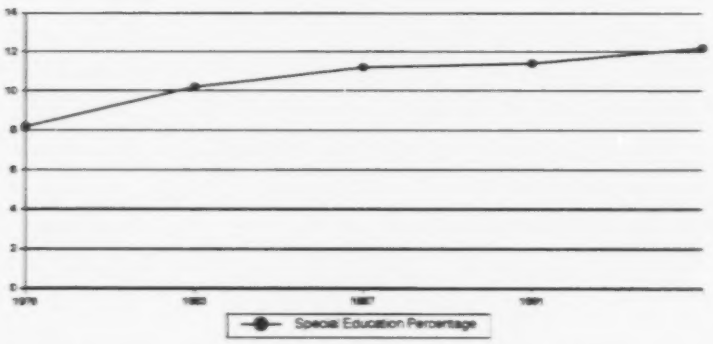
Thirty years ago, only one–fifth of all United States students with disabilities were being educated. By 1970, only seven States were providing education to more than one–half of their students with disabilities, and many States had laws specifically excluding certain students, such as those who were blind, deaf, emotionally disturbed, or "feeble-minded" (Weintraub, Abeson & Braddock, 1971). Before the enactment of IDEA, one million children with disabilities were excluded from school altogether, and another 3.5 million did not receive appropriate programs within the public schools (Rothestein, 1990; Zettel & Ballard, 1982). Still others were housed in institutions such as the Willowbrook State School for the Mentally Retarded in New York and the Pennhurst State School and Hospital in Pennsylvania, which failed to address their educational needs.

Before IDEA, special education practices were inconsistent and haphazard. Through the use of questionable tests and procedures, students could be labeled "special education" and placed in dead–end programs; frequently, too, students from different cultures and language backgrounds were inappropriately labeled "mentally retarded" and placed in special education. Parents were often not involved in any of these decisions and sometimes did not know that their children had been removed from regular classrooms.

The Positive Impact of IDEA

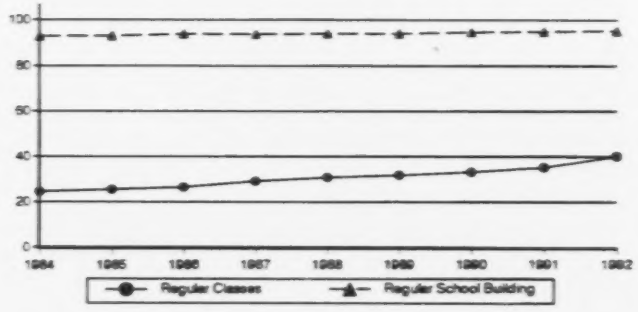
Today, one of the basic goals of the law—ensuring that children with disabilities are not excluded from school—has been largely achieved. In fact, about 12 percent of elementary and secondary students receive special education services (see Figure 1). Many of these students are being educated in regular classrooms (see Figure 2). Today, families can have a positive vision for their child's future. They can participate in a planning process for their child, both in school and in the community, that leads toward a future with higher education, employment opportunities, community living options, and increased degrees of independence.

FIGURE 1
Percent of All Students in Elementary and Secondary Schools Enrolled in Special Education
1976 to 1993



Source: United States Department of Education, Office of Special Education and Rehabilitative Services, Office of Special Education Programs

FIGURE 2
Percent of All Students in Special Education Placed in Regular Class and Regular School Building Settings
1984 to 1992



Source: United States Department of Education, Office of Special Education and Rehabilitative Services, Office of Special Education Programs

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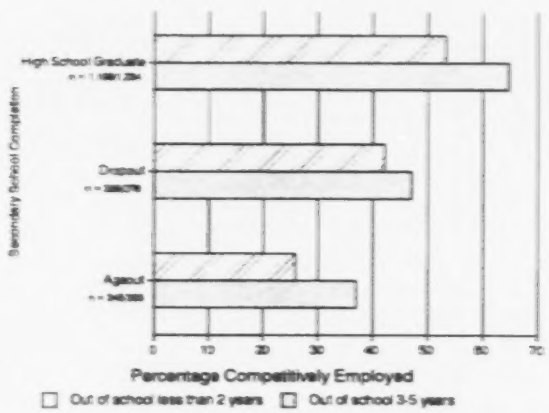
Increases in Educational Attainment and Employment

Because of IDEA, during the past 20 years, results for students with disabilities have improved dramatically. From 1984–85 to 1991–92, the percent of students with disabilities completing high school increased from 35 to 64 percent. As Figure 3 shows, high school graduates, in turn, have a much greater likelihood of being employed than those without high school degrees, particularly those students who enrolled in occupationally oriented education programs. Graduates out of school up to five years report employment rates about 18 percent higher than school dropouts. In addition, more students are going on to college. Fourteen percent of students with disabilities who have been out of high school two years have attended postsecondary school in the previous year (Wagner et al., 1993). The percentage of college freshmen reporting disabilities has more than tripled since 1978 (see Figure 4). Overall today, 44 percent of all adults with a disability have completed some college or received a degree, compared to only 29 percent in 1986.

Rates of employment are higher as a result of increased education under IDEA. Recent high school graduates with disabilities (who have received services under IDEA) have an employment rate twice that of the overall population of individuals with disabilities, most of whom did not have the benefit of IDEA.

FIGURE 3
Percent of Youth Competitively Employed, by Youth Characteristics



Source: Wagner, M., Blackorby, J., Cameto, R., Hebbeler, K., & Newman, K. (1993). *The transition experiences of young people with disabilities*. Palo Alto, CA: Stanford Research International.

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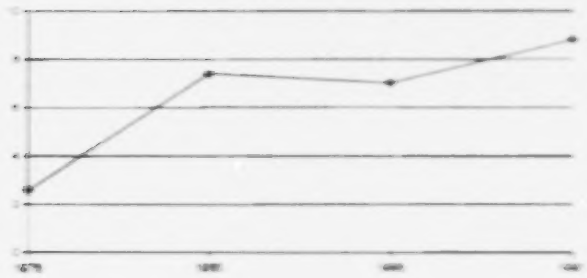
FIGURE 4
Percent of Full-time Freshmen Reporting Disabilities, 1978, 1985, 1988, and 1991



Source: American Council on Education, HEATH Resource Center. (1992). *College Freshmen with Disabilities: A Statistical Profile*. Author: Los Angeles, page 3, table 2.

Additional Benefits

The number of children served in costly State institutions has declined significantly. For example, there has been a 62 percent reduction in the number of children with mental retardation placed in residential facilities between 1978 and 1987. Today, just over one percent of all children with disabilities live in institutions. This has led to significant benefits to individuals with mental retardation who live and work in our society, and to society as a whole.

Our research and understanding of how to improve educational results for children with disabilities also improved significantly over the past twenty years. As a result of research supported by IDEA, demonstrations, dissemination, and technical assistance, there exists an important knowledge base regarding effective strategies for teaching and learning for infants, preschoolers, children, and youth with disabilities—including minority and culturally and linguistically diverse children. Many States, school districts, and individual schools are translating that knowledge into improved practices.

IDEA has been a primary catalyst for this progress and must continue to open doors for people with disabilities. Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving the educational performance of children with disabilities is an essential element of empowering individuals with disabilities to maximize employment, economic self–sufficiency, independence, and integration into society.

Why We Need Change

While there has been great progress, significant challenges remain. Now that children with disabilities are in school, the critical issue is to place greater emphasis on improving student performance. Despite progress, educational achievement for students with disabilities remains less than satisfactory. The students served under IDEA are very diverse and represent a broad range of abilities. Too many students, without appropriate interventions or supplementary aids and services, are failing courses and dropping out of school. When appropriate interventions are not provided, these students too often get in trouble with the law. Enrollment in postsecondary education is still too low. And, while employment rates are improving, they are still unsatisfactory. Results for students with learning disabilities and emotional disabilities are particularly poor—and these students are approximately 60 percent of all students served under IDEA. Moreover, children from minority backgrounds are often inappropriately identified or served. In some cases, children with disabilities are not identified and served. In other cases, particularly with African–American children, students are over–identified and placed in overly restrictive settings.

The challenges that face students with disabilities and their families often require services from multiple agencies and providers. While the law recognizes the importance of interagency collaboration, more needs to be done to encourage better working relationships among schools and other community programs, resources, and agencies to meet the needs of children with disabilities and their families.

Improving educational results for children with disabilities requires a continued focus on full implementation of IDEA in order to ensure that each student's educational services and placement are determined on an individual basis, according to the unique needs of the child, and provided in the least restrictive environment. This means that we must focus on teaching and learning, utilizing individualized approaches, improving developmental and educational results, and ensuring that students with disabilities graduate from high school prepared for independent living and work or continued education. We must build on the experience and research developed in the past 20 years. As we know more about how children learn, we know that all students with disabilities, given the opportunity, can achieve more than we ever believed possible. It is our responsibility, within the framework and the spirit of the law, to provide this opportunity.

We also know, after 20 years, that there is no quick or easy fix. Hoping that the right thing will happen is not sufficient. In this reauthorization, we have the opportunity to improve IDEA to ensure both that the fundamental objectives of the law are more likely to be achieved and that the existing rights and protections for children and their families are preserved and maintained.

OUR VISION FOR IDEA

Our proposals are based on six key principles that clearly define our mission to improve the achievement of students with disabilities, beginning as early as possible in the child's life.

- ***Align IDEA with State and local education improvement efforts so students with disabilities can benefit from them.***
- ***Improve results for students with disabilities through higher expectations and meaningful access to the general curriculum, to the maximum extent appropriate.***
- ***Address individual needs in the least restrictive environment for the student.***
- ***Provide families and teachers—those closest to students—with the knowledge and training to effectively support students' learning.***
- ***Focus on teaching and learning.***
- ***Strengthen early intervention to help ensure that every child starts school ready to learn.***

The pages that follow suggest improvements to IDEA that will be critical to achieving each of these principles. Both the six principles and the proposed amendments reflect extended and in–depth consultations with a range of organizations and individuals committed to improving results for students with disabilities, as well as a serious and comprehensive review of the more than 3,000 suggestions generated by a *Federal Register* notice requesting comment on IDEA reauthorization.

These amendments mark the first substantial revisions to this law since Congress enacted P.L. 94–142, the basis of IDEA, in 1975. Building on two decades of research and experience, they include carefully selected improvements in Part B and Part H of IDEA as well as substantial redesign of Parts C through G. These amendments will strengthen the law by making it more effective in meeting the needs of children with disabilities and their families—and in no way will diminish the opportunities and safeguards guaranteed in IDEA.

Families of children with disabilities stand on the brink of an exciting era—and have an opportunity to take giant steps to help their children realize lives of independence and fulfillment. The combined efforts of families, educators, and advocates working together for the past 20 years are beginning to result in students leaving the school system better equipped to live and to work in their communities. However, much work still remains to be done.

PRINCIPLE I

Align IDEA with State and Local Education Improvement Efforts So That Students with Disabilities Can Benefit from Them

Many schools, school districts, and States around the nation are actively engaged in education improvement. The Goals 2000: Educate America Act, the School–to–Work Opportunities Act, and the Improving America's Schools Act (IASA) promote effective strategies for education improvement based on raising academic and occupational standards and encouraging students to work hard to meet them, improving teaching, and strengthening family involvement for all students, including students with disabilities. To ensure that children with disabilities actually benefit from these reform efforts, we should strive for a system of education that helps all children, including children with disabilities, learn to challenging standards. This reauthorization can help to foster the development of such a system.

To understand what it really means to align IDEA with federal, State, and local school reform efforts, it helps to look at the ingredients for making schools better. These include: 1) increasing expectations and standards and improving assessments of student progress; 2) comprehensive efforts and plans to help students make the necessary progress toward higher standards; 3) high–quality, on–going training for teachers and other professionals; 4) safe and disciplined environments in which learning can take place; 5) appropriate technical assistance; 6) whole–school, rather than categorical, improvement efforts that promote flexibility and responsibility at the local school level; and 7) links and partnerships among schools, parents and communities. On one level, alignment could mean the linking of special education programs and processes with each of these components. On a deeper level, however, it means promoting the transformation of our current categorical education system into better schools for all children that meet the individual needs of each child.

What We Would Like To See

We envision an education system that sets higher expectations for all students, gives all students the opportunity to learn to challenging standards, and takes responsibility and is accountable for the success of all children. To the extent possible, students with disabilities would have meaningful and effective access to the same curricula, aligned with the State's content standards, that other students are receiving and, with

appropriate modifications, be included in State and local assessments. Individualized education programs (IEPs) would focus on enabling students with disabilities to learn to challenging standards.

The needs of students with disabilities would be considered as part of State and local planning for regular education and not regarded solely as special education's responsibility. All teachers working with children with disabilities would be trained to teach to challenging standards. Classrooms would be safe and disciplined. Schools would foster communication among parents and teachers. Students would receive needed health and social services through collaboration among families, schools, other public agencies, and other providers. And the needs of all children would be considered as States revise licensing and certification standards for teachers, as local education agencies reform governance and management, and as schools mobilize the involvement of families and the community in improving teaching and learning for every child.

In this context, special education would not be regarded as a separate program or place for children with disabilities but a source of special education and related services for children with disabilities who need them for a meaningful and effective education. The strategies we describe below are critical to the development of a system that meets this vision.

PRINCIPLE II

Improve Results for Students with Disabilities Through Higher Expectations and Access to the General Curriculum

Under our proposals:

- Students with disabilities are more likely to get the support they need to succeed in the general curriculum, to the maximum extent possible;
- The IEP focuses more on what is needed to help students learn and teachers teach;
- Teachers and parents are more involved in developing the IEP;
- Planning for transition from high school to work or further education begins at age 14;
- Most students with disabilities participate in district-wide and State-wide assessments, leading to more focus on ensuring children achieve to challenging standards and to increased accountability; and
- Parents, taxpayers, and legislators have a more accurate picture of how all children are performing as a result of reporting of assessment data and progress toward State goals.

A critical element of aligning IDEA with State and local educational reform efforts is promoting high expectations for children with disabilities commensurate with their particular needs and meaningful and effective access to the general curriculum in the regular classroom, to the maximum extent appropriate. We know that most children work harder and do better when more is expected of them. Disabled students are no different. We know from experience and research that when we have high expectations for students with disabilities, ensure their access to the general curriculum whenever appropriate, and provide them the necessary accommodations and supplementary aids and services, many can achieve to high standards—and all can achieve more than society has historically expected. Despite our knowledge, too often the education system fails to have challenging standards for these students or even to take responsibility for their academic progress. Instead, in many cases, the system provides a watered–down curriculum, fails to set meaningful educational goals, and excludes far too many students from State and

district–wide assessments. The original intent of IDEA was to ensure that access to an appropriate education is based on individual needs, including access to the general curriculum whenever appropriate. Special education is now too often seen as a "place" to send students, rather than as special education services designed to ensure that students have meaningful and effective access to the general curriculum and achieve to high standards.

There are three complementary strategies for promoting high expectations: (1) including students with disabilities in State and district–wide assessments; (2) improving the IEP process to focus on access to the general curriculum, whenever appropriate, and on goals designed to improve educational results; and (3) asking each State to establish goals for the performance of students with disabilities and to report regularly on its progress toward meeting its goals.

Including Students With Disabilities in Assessments

Challenging standards and aligned assessments are a central component of State and local school reform efforts. One strategy to help ensure that the education system has high expectations for students with disabilities and includes them in school reform efforts is to require that these students be included in State and district–wide assessments, that the results be publicly reported, and that the data be used in State and local school improvement efforts under IDEA (Shriner, Dong–il, Thurlow & Ysseldyke, 1993; Brauen, O'Reilly & Moore, 1994; Ysseldyke, Thurlow, McGrew & Vanderwood, 1994). While section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990 already prohibit the discriminatory exclusion of students with disabilities from participation in assessments, we believe that public reporting of results and use of the data in developing State improvement efforts is equally important. When schools are required to assess students with disabilities and report on the results, schools are more likely to focus on improving results for students with disabilities, and students are more likely to have meaningful access to the general curriculum (Ysseldyke, Thurlow, McGrew & Vanderwood, 1994).

Including students with disabilities in assessments will be a significant change from current practice in many States and school districts. Despite the civil rights requirements of section 504 and the Americans with Disabilities Act, overall, States exclude about half of all students with disabilities from assessments (Ysseldyke, Thurlow, McGrew & Shriner, 1994).

Many students with disabilities currently excluded from assessments are fully able to participate. It is estimated that 85 percent of all students with disabilities are capable of full participation in Statewide assessments (Ysseldyke, Thurlow, McGrew & Shriner, 1994), and assessments for those students can be consistent with high standards. Some States are already developing a variety of alternate assessments, such as portfolios or performance tasks for students with cognitive disabilities (Brauen, O'Reilly & Moore, 1994; McLaughlin & Warren, 1994), and significant research

KENTUCKY'S STATEWIDE ASSESSMENT: PROMOTING HIGH EXPECTATIONS AND IMPROVED PERFORMANCE

Since the passage of the Kentucky Educational Reform Act (KERA) in 1990, Kentucky has been involved in sweeping educational reform, which has included the development of new expectations for all students and an accountability system that includes all students, with rewards and sanctions for schools. The assessment component of the reform effort, Kentucky Instructional Results and Information System (KIRIS), is demonstrating that all students can be included in a statewide assessment and accountability system.

Students with disabilities participate in KIRIS in one of three ways. First, students may participate in all the components (i.e., Transitional Assessment, Performance Assessment, and Portfolios) of the regular assessment program, just as non-disabled students do, with no accommodations. Second, students with disabilities may participate in all three components of the regular assessment program, with adaptations and modifications. The accommodations, consistent with the student's Individualized Education Program (IEP), may include the use of technology, large-print and Braille texts, scribes, interpreters, or sign language.

Finally, students who meet eligibility requirements participate in the Alternative Portfolio Assessment rather than the regular assessment program. Fewer than one-half of one percent of the total school population participates in the alternative assessments.

Performance scores on the various education assessments contribute to assessing a school's success in improving the level of student performance. The scores of students with disabilities are included, just as are those of non-disabled students (LaCount, 1994).

For students with disabilities, the impact of participation is considerable. According to a fourth grade teacher from Shelby County, Kentucky:

- Including students with disabilities in the assessments has prompted many changes in what "we teach students with disabilities, as well as how we teach. Including all students in the assessments has meant more emphasis on individualizing instruction for each learner; there is more collaboration between special and regular classroom teachers, because we all share the same goals for our students and students know they are working toward those same goals."
- Even more important, "we're seeing real skill growth among the students with disabilities, now that we have higher expectations and more challenging content."

exists to help educators make appropriate decisions regarding the inclusion of students with disabilities in general assessments and the use of assessment accommodations and adaptations (Brauen, O'Reilly, Heid, Gentry & Morrisey, 1994; Thurlow, Ysseldyke & Silverstein, 1993; Ysseldyke, Thurlow, McGrew & Skinner, 1994; Ysseldyke, Thurlow, McGrew & Vanderwood, 1994). In order to assist States and school districts, research and technical assistance efforts under IDEA support programs will include specific attention to assessment issues.

Our Proposal for Assessments

- Include in IDEA a requirement that States include students with disabilities in general State and district-wide assessments, with appropriate accommodations, where necessary.
- Recognizing that a small number of students with significant cognitive disabilities cannot appropriately be included in general State and district-wide assessments, as appropriate, States and school districts would develop guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in the general assessments. These alternate assessments would be conducted no later than 1999.
- States would report on results of general State assessments for all students with disabilities no later than 1997, and on results of alternate assessments no later than 1999.
- When the student is included in the general State and district-wide assessments, the IEP would explain what appropriate modifications, if any, are needed. If the child is given an alternate assessment, the IEP would explain why inclusion in general State and district-wide assessments is not appropriate and how the child will be assessed.
- As appropriate, the Department would provide nonstatutory guidance that excluding more than one to two percent of all students from the general assessments may be an indicator of a problem.

Making IEPs More Effective

However, including students with disabilities in assessments is not, alone, sufficient to meet our goals of higher expectations and access to the general curriculum. The IEP—which plays a central role in the implementation of IDEA—must also effectively support these goals. However, there is much concern in the field that IEPs often fail to include meaningful educational goals designed to provide students with access to

What Research on IEPs Tells Us:

- IEPs often have limited relevancy to the general classroom (Morgan & Rhode, 1983; Dudley-Marling, 1985; Joseph, Lindgren, Creamer & Lane, 1983);
- The IEP has increasingly become the sole curriculum offered to many students (Pugach & Warger, 1993)—often addressing only a narrow range of content with few linkages to the general curriculum (Giangreco, Dennis, Edelman & Cloninger, 1994);
- General educators rarely participate in IEP meetings (Gartner & Lipsky, 1987);
- About one-fourth of all parents do not participate at all in their child's IEP meeting (Katsiyannis & Ward, 1992). Students of low-income levels (Singer & Butler, 1992) and culturally and linguistically diverse backgrounds (Harry, 1992; Vincent, 1992) have even lower parental participation than most. Reasons for the lack of parent involvement include cultural differences, logistical difficulties (e.g., scheduling, transportation, child care) as well as a tendency to be intimidated by other members of the IEP team;
- IEP committees tend only to recommend those resources that are available within a school or school district (Tucker, Goldstein & Sorenson, 1993); and
- IEPs often are used solely for process accountability. Because of the lack of connection to system goals or to the general curriculum, it is virtually impossible to use the IEP to assess the progress of students with disabilities (Brauen, O'Reilly & Moore, 1994).

the general curriculum and the special education and related services to enable them to achieve much more. Parents rarely receive regular reports of their child's progress toward the annual goals set out in the IEP. And the annual review of the student's progress at the IEP meeting often fails to take a hard look at the results of on–going classroom assessment to determine whether a revision of the child's program is necessary or the student continues to need special education or related services.

Experience offers insight into why this is the case: IEP meetings too frequently focus only on the time each day or each week the child is "in" special education and on the detailed short–term objectives that bear little relation to how children learn or their parents' aspirations for them. And, because the law does not require regular education teachers to attend IEP meetings, for those students who spend much of their day in the regular classroom, the discussion of what instructional approaches and services are necessary to enable the student to achieve to high standards often takes place without the teacher with whom the student spends most of his or her time. In effect, IEP meetings focus on access to special education rather than on access to an overall high–quality educa-

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tion. Moreover, because of the requirement that the IEP contain short–term objectives for every goal, teachers may spend significant time and energy developing a multitude of detailed and lengthy objectives that have little instructional utility. As a result, the IEP process too often results in a paper exercise characterized by fragmented objectives, lower expectations, and instructional irrelevance.

There is a fair amount of agreement that this is in stark contrast to what IEP meetings could be—an opportunity for the parents and the child's teachers to discuss a student's progress based on ongoing classroom assessment and other appropriate information; how he or she will achieve to challenging standards and have access to the general curriculum whenever appropriate; what changes in the child's program and special education services are needed to improve achievement; whether he or she will be included in the general assessment or in alternate assessments; the extent to which the student will be removed from the regular education environment; and whether the child continues to need special education and related services.

After 20 years of experience, we have learned much about the effectiveness of IEPs. In this reauthorization, we should increase the utility of the IEP by preserving the individualized educational planning that is central to effective teaching and learning while reducing paperwork requirements that do not benefit families, students, or teachers.

Our Proposal for Improving the IEP

Improve the IEP process to focus on:

- participation in the general curriculum and challenging standards;
- inclusion in the regular education environment and ensuring necessary aids and supports for successful inclusion;
- regular reporting to parents on progress toward meaningful, measurable annual objectives;
- working with regular education teachers;
- needs of students with limited English proficiency;
- preventing and managing behavior problems;
- early transition planning to prepare for options beyond high school; and
- meaningful annual reviews of the child's progress.

The specifics of our IEP proposal support all of these general aims. For example, a number of improvements to the IEP would focus on participation in the general curriculum and challenging standards. Importantly, the IEP would include a statement of: (1) the student's present levels of educational performance, including how the child's impairment affects the child's participation and progress in the general curriculum, or, for preschoolers, access to developmentally appropriate activities; (2) measurable annual objectives related to meeting the child's needs that result from his or her disability, to enable the child to participate in the general curriculum, and meeting any other educational needs, if any, resulting from the disability; and (3) any modifications in the administration of general State or district assessments to permit the student to participate in the assessments or, if participation is not appropriate, a statement of how the student will be assessed.

In order to support inclusion in the regular education environment and ensure necessary aids and supports for successful inclusion, the IEP would include a statement of the special education and related services to be provided to the student and any program modifications necessary to attain the annual objectives and participate in the general curriculum and in extra–curricular and other nonacademic activities. The IEP would also include a justification of the extent, if any, to which the child is not being educated or will not participate in extracurricular or other nonacademic activities with non-disabled students. In addition, at the start of each school year, the school district would be required to consider what supports are needed for each teacher who has children with disabilities in their classroom in order to help them implement those children's IEPs.

The IEP provisions also would require that parents be kept regularly apprised of their child's progress toward meaningful, measurable annual objectives, and the extent to which that progress is sufficient to enable the child to achieve the objectives, at least as often as parents of non-disabled children, by means such as report cards. As part of developing a more instructionally relevant IEP that includes measurable annual objectives and regular reporting to parents, short–term objectives would no longer be required. However, educators could include them whenever they believed them to be useful.

To make the IEP process work, the child's regular education teachers need to be involved. Therefore, the IEP provisions would require that, no later than the 1998–99 school year, at least one regular education teacher, in addition to the special education teacher, would participate in the IEP meeting, if the student is or may be participating in the regular education environment.

To ensure attention to particular needs that are sometimes overlooked, the IEP team would be asked to consider the language needs of the student as they relate to the student's IEP. And, to help prevent behavior and discipline problems before they occur, when a student's behavior impedes his or other students' learning, the IEP team would be asked to consider strategies, including a behavior management plan, to address the student's behavior.

Finally, because meaningful annual reviews of the child's progress are essential to improving achievement, the IEP provisions would require that the IEP be reviewed annually to determine whether the annual objectives are being achieved and the effectiveness of the services and program modifications provided. The IEP would be revised to address lack of expected progress or if otherwise appropriate.

State Goals for the Performance of Students with Disabilities

These new strategies for IEPs and assessments are critical to promoting high expectations and better educational results. However, neither is sufficient to ensure that overall State and school district resources are directed at helping students with disabilities reach the same challenging standards established for all children or to address systemic barriers to improving results for students with disabilities.

An explicit focus in IDEA on improving educational results for children with disabilities is needed to ensure that States and school districts do not settle for process compliance with IDEA, but work also to improve results. In order to promote this focus on results in IDEA, States should be asked to develop their own high goals for the performance of students with disabilities in the State, measure progress toward their goals, and publicly report the results. Information on student performance obtained from reporting on assessments, as well as other student performance information, would then be integral to an overall State effort to improve student performance.

Our Proposal for State Performance Goals

- As part of establishing eligibility under Part B of IDEA, each State would have its own goals for the performance of students with disabilities. To the maximum extent possible, State goals would be consistent with other goals and standards established by the State, including those established under Goals 2000, School–to–Work, the Improving America's Schools Act (IASA) and other relevant programs.
- Each State also would establish performance indicators that it would use to assess progress toward achieving its goals. The performance indicators would, at a minimum, address the performance of children with disabilities on assessments, drop–out rates, and graduation rates.
- Each State would report every two years on the progress of the State, and of children with disabilities in the State, toward meeting the State's goals.

PRINCIPLE III

Address Individual Needs in the Least Restrictive Environment for the Student

Under our proposal:

- initial and triennial evaluations will focus on individual students' educational needs and instruction to improve teaching and learning and to use resources more effectively;
- States will have flexibility to use eligibility criteria that are less categorical while ensuring that all students who are currently eligible remain eligible;
- improved funding formulas will facilitate pre-referral services and inclusion, in order to help schools better serve all students;
- procedural safeguards and child-find requirements will be maintained;
- States will have more flexibility in deciding how to distribute federal special education funds to meet local needs and objectives; and
- schools will be able to serve children in the regular classroom without excessive paperwork for tracking the use of funds.

A central purpose of IDEA is to ensure an effective and individualized education designed to address each child's particular needs in the least restrictive environment. However, for many children, this promise is still not being kept. Analysis of our experience over the past 20 years shows that many children are still not receiving an individualized education in the least restrictive environment, as the law requires. Below, we discuss strategies for achieving this central purpose of the law through attention to the following issues: (1) initial evaluation and triennial re-evaluation; (2) the current categorical eligibility criteria; (3) the State funding formula; (4) the paperwork associated with fiscal tracking requirements; and (5) the problem of disproportionate representation of minority students.

Refocusing the Initial Evaluation and Triennial Re–Evaluation

To help students achieve to higher standards, parents and teachers need usable information about the student's abilities and the special education and related services he or she needs—how the student learns, where instruction should begin, what instructional strategies are most effective, what progress should be expected, and what supports or modifications are necessary to ensure meaningful access to education. The initial evaluation and triennial re-evaluation, as well as the annual review of the IEP, are the means for obtaining this vital information. To be effective, they should assess how the child is progressing in the general curriculum and how he or she responds to various instructional approaches within the curriculum.

Far too often, initial evaluations and triennial re-evaluations consist of a battery of standardized tests that are only partially or not at all related to the student's instruction or educational progress. They tend to look only at which of the 13 disability categories, within which the student fits in order to place a label on the child, without looking at how the child learns, or how the curriculum needs to be modified for the individual child to achieve to his or her full potential (Merrell, 1990; Reschly, 1988; Shinn, Tindal & Stein, 1988). While determining what category a child is in can often provide helpful information, it does not provide sufficient information to educators and parents to make individualized decisions based on the student's particular needs. Many professionals agree that excessive attention is devoted simply to identifying the disability rather than gathering valuable information about what the individual student knows and needs to be able to learn to his or her full potential.

Initial evaluations and triennial re-evaluations, as currently implemented, often divert resources from the primary goals of teaching and learning. School psychologists spend too much of their time administering evaluations and re-evaluations with little instructional relevance, rather than working directly with students, parents, and teachers to improve results for students. Even students with clearly permanent disabilities such as deafness or blindness often are inappropriately subjected every three years to a battery of tests to determine whether they remain disabled. Moreover, each initial evaluation and triennial re-evaluation is estimated to cost an average of $2,000 (Chaikind, Danielson & Brauen, 1993). Streamlining evaluation and re-evaluation procedures to focus on what is necessary will free up resources, including the time of school psychologists and other staff, to help students better.

Our Proposals To Make Initial and Re-Evaluations More Informative and Functional

- **Focus initial evaluations on instructionally relevant information, in addition to determining the existence of the child's disability.** For example, while the evaluation would determine whether a child has a disability that affects his or her ability to read, it would focus primarily on which instructional techniques would help this particular child learn.
- Make re-evaluation provisions more functional through the following changes:

  (1) At least every three years, an evaluation team would conduct a re-evaluation by reviewing existing evaluation data regarding the child, including current classroom-based assessment and teacher observation, and, based on that review, the team's professional judgment, and input from the parents, identifying any additional data needed to determine:

  (a) the child's present levels of performance and educational needs;

  (b) whether the student continues to need special education and related services, and, if so, the additions or modifications to the special education and related services needed to enable the child to meet the IEP objectives and participate in the general curriculum, as appropriate; and

  (c) whether the child continues to have an impairment.

  (2) In order to ensure that parents have input into the re-evaluation process, require that the public agency provide notice to the child's parents that:

  (a) describes the evaluation procedures that the public agency proposes to conduct or why they propose not to conduct any; and

  (b) if the team determines that no additional data are necessary to determine whether the child continues to have a disability, informs the parents that they may request that the re-evaluation also include an additional assessment to determine whether the student continues to have a disability.

- These provisions for triennial re-evaluations would differ from current statute and regulations because:
  - public agencies would not be required as part of each re-evaluation to make a new determination as to whether the child has a disability, unless the public agency or the parent believes that such a determination is warranted;

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- the re-evaluation would not be required to conduct new procedures or address every area of suspected disability, if the team decides that the information is not useful or that comprehensive information from other sources is already available; and
- the provisions would clarify that the current practice in many districts of simply re–administering the same procedures used in the initial evaluation is neither necessary nor appropriate in all cases.

Encouraging Eligibility Determinations that Focus on Educational Needs

Determining a student's disability is a natural element of the life of a child with a disability and can help to explain what modifications and special education and related services the student needs in order to achieve to challenging standards. However, the particular type of disability should not, by itself, determine the instruction and services a child needs or the child's placement. Research shows that the instruction and services a student needs are best determined by an individualized analysis of the child's abilities and skills (Fuchs & Deno, 1991). Nonetheless, too often, a purely categorical approach to instruction and service delivery focuses solely on the child's disability category without recognizing that many students within each category have very different functional abilities and instructional needs.

Problems Arising from Current Disability Categories

The 13 disability categories in the current statute and regulations form the basis for determining who is eligible to be served under IDEA. In many cases, once a student is identified as being in a particular disability category, the student is assigned to a program for students in that disability category to be taught by a teacher trained in that disability category. However, many of the 13 categories in the law are based on medical models and stereotypical patterns of performance for groups of persons (Atkins & Pelham, 1992; Reschly, 1988), and do not convey accurate information about an **individual** student's educational needs or how the disability affects an **individual** student's ability to succeed educationally.

Federal law does not require the categorical labeling of individual students, although it does require reporting on the number of students in each disability category. However, the current requirement of reporting and designation of children in one of 13 categories in order to be eligible under IDEA has fostered a narrow, categorical approach to evaluating, labeling, placing, and serving children (Keogh, 1990; Reschly, 1988; Reynolds, Wang & Walberg, 1987). This categorical approach is inconsistent with the basic principle of IDEA that children should be served based on individual needs in the least restrictive environment rather than based on stereotypical assumptions. Not only is this categorical approach contradictory to our fundamental goals and research on best practices, but also, for some students, it can be stigmatizing and breed low expectations (Shinn & Marston, 1985; Shinn et al., 1988; Tindal & Marston, 1986).

The practice of making educational decisions based solely on a child's diagnostic category can also detract from the central goal of schools: teaching and learning. Local school districts are spending considerable resources on evaluations to determine the appropriate diagnostic label (such as mentally retarded, learning disabled, autistic) for each child—with little educational benefit. The eligibility criteria for preschool students differ in one significant respect. For 3– through 5–year–olds, States may identify children as developmentally delayed instead of classifying them at a young age in a particular category.

The Need for More Efficient Approaches

Some States already are moving to less categorical approaches to eligibility and service delivery for 6– through 21–year–olds, based in part on the success of the less categorical approach for 3– through 5–year–olds. However, these States find their progress toward more efficient and effective approaches hampered by the current federal eligibility requirements. A revised eligibility definition could give those States the flexibility to move forward toward less categorical approaches, while permitting other States to retain their current eligibility criteria.

Under a revised eligibility definition, the same children who are eligible to be served under the law would remain eligible. However, the process for evaluation could be more instructionally relevant and better help determine what each child knows and what services and program modifications the child needs to be able to learn to high standards. These changes would help to enable students, families, and teachers to better understand the child's needs and appropriate instructional strategies. These changes also would help to ensure that services and placement would be based on the individual student's needs—and not solely on the student's disability category.

Our Proposals for Eligibility

- **Amend IDEA to define a child with a disability eligible for services under IDEA as "a child who has a physical or mental impairment and who, by reason of that impairment, needs special education and related services."**
- **The term "physical or mental impairment" would be defined to mean: autism; a hearing impairment, including deafness; a visual impairment, including blindness; mental retardation; a speech or language impairment; an emotional disturbance; an orthopedic impairment; traumatic brain injury; a specific learning disability; and other health impairments.**
- **Importantly, for purposes of eligibility, States would not be required to classify children by their impairment provided that each child with a listed impairment who, by reason of that impairment, needs special education and related services is served. This would permit States to develop their own strategies for less categorical eligibility so long as they ensured that students eligible under the current categories are served. The authority to serve preschool children who are experiencing developmental delays would not be changed.**

This change in eligibility criteria would not affect who is eligible for services under IDEA. All students who are currently eligible would remain eligible under the new definition. And, as under current law, only students who are in need of special education services as a result of their disability would be eligible.

Nor would this change require States to change their eligibility criteria—they could retain what they now use, if they so wished. However, States that are ready to move toward less categorical eligibility criteria and evaluations, consistent with the new definition, could do so. And, to support the efforts of the States, federal research efforts would devote considerable attention to improving and disseminating knowledge about eligibility criteria and evaluation instruments.

Ensuring That Federal and State Funding Formulas Help Promote Good Practices

To achieve our goal of ensuring that every child with a disability receives an appropriate education that meets his or her unique needs in the least restrictive environment, and receives services based on individual needs, not a label, it is critical that federal and State financing systems not create disincentives for appropriate placements and services.

Twenty years ago, when the law was adopted, Congress found that one million children with disabilities were excluded entirely from the public school system and that many children with disabilities were participating in regular school programs but because their disabilities were undetected, they were prevented from having a successful school experience. A critical purpose of the 1975 law was to ensure that children with disabilities were identified and served. A funding formula that allocated funds to States based on the number of students identified and served created appropriate incentives to identify children and serve them under IDEA. And those incentives have been successful—more than five million students are served under IDEA, and the number increases every year.

Most disabled students are now enrolled in school and identified as disabled. Critical issues today are that too many children are served in inappropriately restrictive environments, and, in some communities, that children—particularly minority children—are often inappropriately identified as disabled in order to generate funding (Feir, 1992; Parrish & Montgomery, 1995).

The current federal funding formula can create incentives that add to these problems, while creating disincentives for those States that seek progressive solutions to them. For example, some States have embarked on aggressive programs of early intervention and pre–referral in order to serve students with disabilities in a less restrictive and more appropriate manner. Yet, as they engage in these practices to serve children early and inclusively—practices that educators and families agree are exemplary—they find the number of students identified as needing special education and related services, and thus their federal funding, is declining. The federal funding formula thus is a direct disincentive to best practice (Parrish & Verstegen, 1994).

Allocating funding to States based on the total number of children in the State—rather than the number of children with disabilities—would create incentives for States to undertake reforms such as pre–referral and early intervention and disincentives for over–identifying children as disabled. This would be true regardless of the funding level for Part B. Such a change would <u>not</u> affect procedural safeguards afforded children with disabilities or suspected of having a disability, or the requirement to identify and serve all children with disabilities. Nor would it require that States adopt population–based formulas for the distribution of State special education funds. Allocating federal funding to States based on State population also would simplify administration of the program by reducing data-collection burdens and avoiding the problem of inaccurate child counts.

Changing Federal and State Practices That Encourage Inappropriate Placement

Many State formulas governing the distribution of State funds also contain disincentives to appropriately serving students in the least restrictive environment. For example, in some States, if a district seeks to keep a child in his or her neighborhood school because it believes that the student is most appropriately served in the regular classroom in that school, the State will not pay for the supports and aids that child needs to be able to succeed in that environment. The lack of State funding in this instance is due solely to the State's funding formula, not the needs of the student. Indeed, that same State would pay most or all of the cost of an expensive separate placement (Dempsey & Fuchs, 1993; Weintraub & Higgins, 1982). Not surprisingly, research shows that States that pay districts more for teaching special education students in more restrictive environments have a lower percentage of students with disabilities in the regular classroom (Dempsey & Fuchs, 1993).

Our Proposal To Reform Federal and State Funding Formulas

- **Amend IDEA to create incentives for appropriate practice by basing federal allocations to States over and above their FY 1995 funding levels on the total number of children in the State, including both disabled and non-disabled children.**
- Amend IDEA to require States that have funding formulas for special education that provide differential funding for students according to where the child is served to demonstrate that the formula will not result in placements that violate the IDEA's least restrictive environment requirement, or change the formula.

Reducing Unnecessary Record-Keeping Requirements

Just as the current federal funding formula creates disincentives for appropriate placements and services, the current federal rules for tracking how the federal dollars are used also creates disincentives for serving children in the regular classroom, even when that is the most appropriate placement.

Serving a disabled child in the regular classroom often means that a special education teacher or aide will work in the regular classroom with that child and that child's regular education teacher. However, under the Department's rules, whenever a special education teacher works in a regular classroom with both disabled and non-disabled students, only the time spent working with disabled students may be paid for by IDEA funds. The rules allow only an "incidental benefit" to non-disabled students—and "incidental benefit" is very narrowly defined. In practical terms, this means that personnel must spend an inordinate amount of time on paperwork to document the time and effort spent on working

with disabled and non-disabled children so that only that portion of the salary attributable to time spent solely with disabled children is paid for by IDEA funds.

Research and experience show that the presence of the special education teacher or aide can significantly enhance the educational experience of all the children in the classroom, not only the children identified as disabled (Davis, 1993; Slavin et al., 1991). The special education teacher or aide can help the disabled child or children work in small groups with non-disabled children, can assist in maintaining classroom discipline, and can intervene early with children who may not yet be identified as disabled but who are at significant risk of being identified because of their difficulties in learning. However, the current record-keeping requirements discourage this, directly contradicting what we know about good educational practice.

We propose a different formulation of the record-keeping requirements—one that would create incentives for appropriate services while at the same time ensuring that children served under the IDEA continue to benefit from federal funding. This new formulation would loosen the limitation on the benefits non-disabled students can receive from IDEA funds as long as children with disabilities benefit from these services. Of course, children with disabilities must continue to receive all of the services required by their IEPs.

Our Proposal for Reducing Record-Keeping Requirements

- Allow school districts to use their Part B funds for the cost of special education and related services provided in the regular class for the purpose of meeting the needs of a child with a disability in accordance with the child's IEP even if children without disabilities benefit from the services.

Improving the Education of Minority Students

Although special education has generally been viewed as a valued service, there is another side to this for some children from minority backgrounds. African–American children are identified for special education and placed in restrictive settings and stigmatizing, dead–end programs at much higher rates than other children (Obiakor, 1992; Ogbu, 1987; U.S. Department of Education, 1994). Conversely, Asian and Native American Indian children are often under–represented in special education (U.S. Department of Education, 1994). In addition, schools often have difficulty in appropriately identifying and serving children with limited English proficiency (Gersten & Woodward, 1994; Baca & Cervantes, 1984). A major challenge is to ensure that children from minority backgrounds are appropriately served under IDEA.

The strategies and approaches we outline here will help reduce inappropriate incentives that foster inappropriate identification, placement, and services. For example, our improved strategies for assessments and IEPs will reduce incentives to place children in restrictive placements in order to avoid being accountable for their academic progress, and will promote for all children high expectations rather than watered-down curriculum and dead–end programs. Our strategies for federal and State funding formulas will remove fiscal incentives to over–identify children and to place them in restrictive settings. And, our approach to fiscal tracking will promote educational supports in the regular classroom. Our approaches to evaluation, triennial re-evaluation, and eligibility will permit removal of stigmatizing labels and provide for periodic assessment that is instructionally relevant and designed to determine whether the child continues to need special education services.

Our Proposal for More Effective and Appropriate Services for Minority Students

- Promote more support in the regular classroom with full participation in the general curriculum and assessments, as appropriate for each child;
- Permit removal of stigmatizing labels and provide for periodic assessment that is meaningful and instructionally relevant;
- Remove fiscal incentives to over–identify children and to place them in restrictive settings; and
- Consider the language needs of limited English proficient students in developing their IEPs.

PRINCIPLE IV

Provide Families and Teachers—Those Closest to Students—with the Knowledge and Training To Effectively Support Students' Learning

Under our proposals:

- five new support programs replace the current 14 support programs to promote more comprehensive and effective efforts to improve implementation of IDEA;
- new support programs promote professional development and family involvement, ensure that knowledge about research and best practices reaches parents, teachers and administrators, and support State efforts to improve results for students with disabilities;
- parents get better, more useful information about their rights under the law;
- parents have a say in their child's placement;
- mediation is an option in resolving differences between families and schools, thus reducing the need for adversarial legal proceedings; and
- there is support for development of community-wide partnerships to meet the educational, health, mental health, and social-service needs of children and their families.

Achieving the principles we have outlined for all students with disabilities—aligning IDEA with State and local school reform efforts; promoting high expectations for students with disabilities and access to the regular curriculum in the regular classroom whenever appropriate; and more effectively addressing individual students' needs in the least restrictive environment—will not be possible without improved practice by teachers and administrators and better communication between teachers and families. Implementing these strategies in assessments, IEP practice, evaluation, eligibility, and other critical areas will not be possible unless families, teachers, and principals have the knowledge and training they need to work effectively with students and with each other.

Developing knowledge, training, and better working relationships will require new approaches that build on our increased knowledge of what works for improving the education of children with disabilities. First, the support programs authorized under Parts C through G of IDEA should be strengthened to better support research, technical assistance, parent training, and to better coordinate with research, training, and technical assistance done by others, including other federal agencies. Second, the provisions governing professional development in the support programs should be transformed to create a powerful and coherent system for training all educators working with children with disabilities. Third, specific steps should be taken to strengthen working relationships between families and schools in four critical areas: (1) increasing involvement of families in decision–making, (2) improving information available to families, (3) linking families to other resources and supports in the community, and (4) reducing adversarial dispute resolution by using mediation. Finally, the provisions should assist States in their efforts to improve implementation of IDEA in the context of local and State reform efforts.

A. RESTRUCTURING THE SUPPORT PROGRAMS TO BE MORE EFFECTIVE AND EFFICIENT

The support programs under IDEA have played a critical role in supporting the development of knowledge about the needs of children with disabilities. Each of the 14 programs was created to address a specific need that the field had identified as important. Many of the programs have helped to address those needs. For example, the "systems–change grants" in the areas of transition and severe disabilities have been instrumental in directing attention to, and improving practice in, these critical areas. Research funded by the Office of Special Education Programs, particularly the recent National Longitudinal Transition Study of Special Education, has greatly expanded our knowledge about how to improve educational results for children with disabilities. The National Early Childhood Technical Assistance System (NEC*TAS) has provided coordinated, comprehensive, research–based technical assistance that has effectively assisted States in implementing the preschool grants program under section 619 as well as the infants and toddlers program authorized under Part H.

Why Change in the Programs Is Necessary

While the 14 support programs have made important contributions over the years, most would agree that they are not achieving their potential. The programs could and should do far more in supporting the efforts of families, teachers, schools, administrators, researchers, and institutions of higher education to work together to improve educational results for children with disabilities. Under current law, the 14 separate support programs are free–standing and self–contained. The multiplicity and narrow focus of the programs promote fragmentation. Few programs manage to provide substantial support to, or to have a substantial impact on, more than a few States or districts. Having developed separately over the years to address specific issues, they bear little relationship to each other or even to the key challenges that classrooms, schools and States are facing in the implementation of Part B. Moreover, there are significant gaps in current authorities (e.g., model projects for students with learning disabilities are limited to children under 8 years old; model projects for drop–out prevention are limited to students who are in high school or who are severely emotionally disturbed). In addition, administering the numerous support programs requires significant federal staff. As we work to make government smaller and more efficient, there will be fewer staff to administer these programs—making effective administration problematic and leading to more fragmentation.

We envision a streamlined, comprehensive, and coordinated approach for the support programs that will make more effective use of the resources of the support programs. This new approach would have the following elements. First, the explicit goal and focus of the programs would be to assist in the improvement of the quality of the two major IDEA programs for children age 3 through 21 (Part B) and for infants and toddlers ages birth through 2 (Part H). Second, to meet that goal, the programs would concentrate on developing meaningful and timely information on improving results for students with disabilities and then putting that information into the hands of those who need it: States, school districts, educators, and parents. Third, recognizing the key role that the States play in implementing the law, the programs would enhance the ability of State agencies to carry out their own plans for program improvement by providing flexible resources for reforming and improving critical areas of their education system, with special attention to professional development, based on their IDEA State Improvement Plan. Fourth, the programs would link support for State improvement activities to State efforts to address critical compliance issues such as shortages of adequately trained teachers. Finally, the programs would support the alignment of IDEA with State and local reform efforts by ensuring linkages with other program-improvement activities funded under Goals 2000, IASA, and other efforts that support or provide services to children with disabilities and their families.

In order to promote these goals, the programs would be implemented through broad–based planning involving various constituencies (including parents, teachers, individuals with disabilities, administrators, researchers and policy-makers) to develop a comprehensive, long–range program-improvement agenda that includes research, demonstration, technical assistance, technology, and professional development, in order to improve knowledge and to create better linkages between knowledge and practice.

Our Proposal To Create Five Comprehensive Support Programs

- Amend IDEA to create five powerful new support programs that would replace the current Parts C through G. The five new authorities would be: (1) State Improvement; (2) Professional Development; (3) Research to Practice; (4) Parent Training and Information; and (5) Technology Development and Educational Media Services. Each is described below in detail.
- In order to ensure that issues concerning the special needs of children with low–incidence disabilities continue to be adequately addressed in the areas where there is currently categorical funding by type of disability—such as severe emotional disturbance, deafness, deaf–blindness, and severe disabilities—there would be a minimum floor for support spending across the new support programs to meet the needs of children in these disability categories equal to current appropriations dedicated to these areas.

State Improvement Activities

In recognition of the critical role that States play in implementing IDEA, this program would enhance the ability of State agencies to carry out their own plans for meeting their performance goals established under Part B by providing flexible resources for program-improvement activities based on an IDEA State Improvement Plan. Because an essential element of school improvement is trained teachers and administrators, the program would focus substantial attention and funding on professional development. The new program would build on and leverage the newly enacted program-improvement and professional-development authorities of Goals 2000 and IASA to create a cohesive approach to make effective changes in the education system. This authority would distribute funds to States on a formula basis and would be a driving force for improving the entire IDEA program, by giving States the tools to address systemic change and professional development under IDEA in

HISTORY AND PURPOSE OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

Since 1975, IDEA has ensured access to education for children with disabilities. IDEA is designed to ensure that each child with a disability has a free appropriate public education; that each child's education is determined on an individualized basis and designed to meet his or her unique needs; that each child's education is provided in the least restrictive environment; and that the rights of each child and family are ensured through procedural safeguards.

IDEA has helped millions of disabled children finish school, go to college, get jobs, and participate fully in society. However, academic achievement, graduation rates and employment rates of disabled students are still lower than those of their non-disabled peers.

The U.S. Department of Education is proposing amendments that build on two decades of research and experience to meet the needs of the classroom of today. These amendments mark the first substantial revisions to the law since Congress enacted P.L. 94–142, the basis of IDEA, in 1975.

These proposals are based on six key principles that reflect our mission to ensure that students with disabilities have the opportunity to learn challenging materials in classrooms with well–prepared teachers. What follows is an explanation of how the specific proposals under each of these principles will help your child succeed.

PRINCIPLE I:

Align IDEA with State and Local Education Reform Efforts So That Students with Disabilities Can Benefit from Them

- Connecting IDEA with educational improvements occurring in schools around the nation will help ensure that your child will be included in overall school-improvement activities.
- Your child's special education program is more likely to be the supports and services your child needs, rather than a separate program and separate place to educate students.

PRINCIPLE II:

Improve Results for Students with Disabilities Through Higher Expectations and Access to the General Curriculum

- Your child's Individualized Education Plan (IEP) will be an important tool for focusing on participation in the general curriculum and evaluating your child's progress and the effectiveness of his or her educational program.
- The IEP team will include you, your child's special education teacher, and at least one of the regular education teachers who works with your child.
- As a member of the IEP team, your input in developing the IEP and determining measurable annual objectives will be an important consideration in the process.

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- You will receive regular reports on your child's progress, by means such as report cards, at least as often as the regular reporting cycle of the school.
- The IEP will describe the special education, related services and program modifications your child needs to meet annual objectives and participate in the general curriculum and extra–curricular activities, and it will justify the extent, if any, to which your child will not be educated with non-disabled students.
- Beginning at age 14, transition planning for your child will consider a course of study and supports needed to move toward postsecondary education, employment or other meaningful activities.
- Your child will participate in state and district-wide assessments and the results of state assessments will be publicly reported, thus ensuring more accountability for educational results.

PRINCIPLE III:

Address Individual Needs in the Least Restrictive Environment

- Your child's initial evaluation and three–year re–evaluation are more likely to gather information that will be helpful to you and your child's teacher, such as what instructional techniques will be effective for your child.
- Once it is determined that your child has a disability, the currently required re-evaluation would no longer have to include a full battery of tests to determine whether your child continues to have a disability if you and the school agree that this determination is unnecessary.
- Your state would be able to use eligibility criteria that are less categorical in order to focus more on student needs than student labels, while ensuring that all students who are currently eligible remain eligible.
- Current procedural safeguards and child-find requirements will be maintained.
- It will be easier for your child's school to provide appropriate special education services because excessive paperwork now required to track the use of IDEA funds in the regular classroom would be eliminated.
- Changes in IDEA funding formula would facilitate pre–referral activities and would discourage the over–identification of children for special education, thus helping schools better serve students.

PRINCIPLE IV:

Provide Families and Teachers - Those Closest to Students - with the Knowledge and Training to Effectively Support Students' Learning

- As a parent, you will get better, more useful information about your rights under the law.
- As a parent, you will be included in the decision-making about your child's educational placement.

- Mediation will be offered to you as an option for resolving any complaints you may have with your child's school, and the option of requesting a hearing will be maintained.
- State and community partnerships to meet the educational, health, mental health and social-service needs of children and their families will be promoted.
- A Parent Training and Information Center will exist in every state to provide information and training for all families.
- Current knowledge about research and best practices will reach parents, teachers and administrators through a comprehensive federal research and technical assistance program.
- With input from parents, educators and others, your state may develop a state improvement plan that addresses the need to improve the performance of students with disabilities, with emphasis on professional development, and receive funding to implement the plan.

PRINCIPLE V:

Focus Resources on Teaching and Learning

- Energy and resources can be focused on activities with clear educational benefit, due to the elimination of unnecessary paperwork requirements.
- State planning will be focused on improved results for your child and other students with disabilities.
- The ability of your child's school to maintain safe and disciplined classrooms will be enhanced.
- Schools will be allowed to move a student who has brought a firearm or other dangerous weapon to school to an alternative educational setting for up to 45 days, and hearing officers will be permitted to authorize the removal for up to 45 days to an alternative educational setting of a student who is substantially likely to injure himself or others, during which time the IEP team can consider appropriate services and placement for the child.

PRINCIPLE VI:

Strengthen Early Intervention To Help Ensure That Every Child Starts School Ready To Learn

- Infants and toddlers who are at risk of developmental delay will be more likely to receive services under the Part H comprehensive system for early intervention because states will be able to provide at–risk infants and toddlers with service coordination without having to provide a full array of Part H services.
- Less variation may exist from state to state in the definition of "developmental delay" as a result of the recommendations of a panel of experts convened to propose a definition of the term.

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INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1995

How these Amendments Affect You and Your Child: A Guide for Families

U.S. Department of Education

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return for increased accountability for attaining positive results for students with disabilities.

At the heart of this new program would be a State Improvement Plan that would be developed and implemented in conjunction with State agencies for higher education, institutions of higher education or schools of education, relevant certifying organizations, and community–based and other nonprofit organizations, and with the participation of local teachers, parents, administrators, and related-services personnel. In addition, the regional technical assistance centers supported under the Research to Practice program would be available to assist States in developing their plans, to provide them with the most up–to–date research, and to link them to other technical assistance providers who can provide specialized assistance.

The IDEA state improvement plan developed with this broad–based input would identify the critical aspects of early intervention, general education, and special education programs that must be improved to enable children with disabilities to meet the performance goals the State has established under Part B. The plan would then reflect the State's analysis of the performance and needs of children with disabilities and the special education program in the State, including: (1) data on performance of students with disabilities, including performance on State assessments, drop–out rates, and graduation rates; (2) State and local needs for professional development, including personnel shortages; and (3) major findings in Office of Special Education Programs monitoring of the State. Based on this analysis, the State Improvement Plan would include strategies for addressing critical concerns and would provide a framework for systemic efforts to meet the State's performance goals—whether funded under the new support programs, under Part B, or under other federal, State, or local programs.

Each State participating in the program would develop its own strategies to address the critical needs it has identified, including how it will hold school districts and schools accountable for educational progress for children with disabilities, how it will provide high–quality technical assistance to school districts and schools, and how it will address improving results in geographic areas of greatest need. The State would also consider how it might change State policies or procedures to address systemic barriers to improving results for children with disabilities, such as failure to provide smooth transitions from preschool to school or from school to work, or the exclusion of children with disabilities from reforms in general education. In order to track its progress, the State would report on the progress of the State and of children with disabilities, in relation to the State's performance goals, the effectiveness of the State's strategies in

meeting those goals, and the strategies that need revision in order to improve its performance.

Each State would also be asked to devote considerable attention and resources to professional development in the context of its State Improvement Plan. Perhaps no other activity will be more critical in our effort to improve results for students with disabilities than ensuring that teachers and other staff serving them have the necessary skills and knowledge to address their special needs. The need for professional development is particularly acute as States, school districts, and schools provide for participation of students with disabilities in curricula aligned with State standards and the placement of more students in regular classrooms.

Historically, special education and regular education have operated as separate systems, with separate bureaucracies and separate professional-development programs, even though today the great majority of students with disabilities spend all or part of their time in regular education classes. Most regular education teachers have never been trained to work with students with disabilities. Most special education personnel are ill–equipped to work in regular classrooms or collaborate with regular educators because their preparation focuses on serving students with disabilities primarily in segregated environments. This situation is slowly changing as more States are requiring special education training for new regular education teachers, and as more institutions of higher education are combining their schools of special and regular education. However, these reforms affect only new teachers. The bulk of the educational work force remains without education or training to serve students with disabilities.

Current professional development activities too often perpetuate this status quo. States are required to develop and implement comprehensive systems of personnel development (CSPDs), but are given few resources to develop and implement them. Because professional development of regular and special education teachers proceeds on different tracks, little preparation is given regular education personnel to provide special education services. In addition, insufficient preparation is given special education teachers and other staff in the content knowledge necessary to help students with disabilities learn to high standards or the skills necessary to collaborate with regular educators or work in integrated classrooms.

Moreover, institutions of higher education are the primary recipients of Part D funding but too often function independently of the needs of States for personnel. Also, grants to develop new pre–service and in–service training programs are not linked with ongoing State personnel development activities or to broader State and national goals such as the development of model national standards or cross–categorical certification. Finally, the many separate independent awards made under Part D hinder overall reform of professional development and systemic changes

HIGH-QUALITY PROFESSIONAL DEVELOPMENT

Professional development serves as the bridge between where prospective and experienced educators are now and where they will need to be to meet the new challenges of guiding all students in achieving to higher standards of learning and development. On-going, high-quality professional development helps teachers and other educators acquire needed content knowledge and teaching strategies and supports them in learning to work together to improve the teaching and learning environment. Effective professional development also requires partnerships among schools, higher education institutions and others to address important and complex educational issues in a variety of settings and for a diverse student body.

Based on the best available research, exemplary practice and feedback from hundreds of educators and organizations concerned with education, the Department of Education has identified principles of professional development that can provide useful guidance to states, school districts, schools and institutions of higher education in their efforts to provide high-quality professional development for teachers and other educators who work with children with disabilities.

The mission of professional development is to prepare and support educators to help all students achieve to high standards of learning and development.

High-Quality Professional Development:

- focuses on teachers as central to student learning, yet includes all members of the school community;
- focuses on individual, collegial, and organizational improvement;
- respects and nurtures the intellectual and leadership capacity of teachers, principals, and others in the school community;
- reflects best available research and practice in teaching, learning, and leadership;
- enables teachers to develop further expertise in subject content, teaching strategies, uses of technologies, and other essential elements in teaching to high standards;
- promotes continuous inquiry and improvement embedded in the daily life of schools;
- is planned collaboratively by those who will participate in and facilitate that development;
- requires substantial time and resources;
- is driven by a coherent long-term plan; and
- is evaluated ultimately on the basis of its impact on teacher effectiveness and student learning (and this assessment guides subsequent professional development efforts).

(e.g., portable certification requirements and reducing over-specialization) that would help address the need for qualified personnel.

What is needed is high–quality professional development for all teachers, paraprofessionals, related-services personnel, and school administrators who work with students with disabilities that is designed to promote high expectations, access to the general curriculum, and appropriate special education services provided, whenever possible, in the regular classroom.

Because of the critical importance of well–prepared personnel in any effort to improve the education of students with disabilities, the State would be asked to address how it will ensure that personnel working with children with disabilities—including regular education teachers, administrators, and paraprofessionals—have the skills and knowledge to enable these children to succeed. Thus, the State Improvement Plan would provide the framework for professional development for all teachers and administrators working with students with disabilities. The new program would encourage attention to in–service training and increasing the quality of the current work force, while also recognizing the State's obligation to take responsibility for teacher shortages, except for those few areas where federal support is required because the number of teachers needed in any particular State is too small to justify developing a State teacher preparation program. Except in exceptional circumstances, market forces should ensure an adequate supply of high–incidence personnel. However, if, in some States, that proves not to be the case, the State would be able to use its State grant to increase supply in a variety of flexible and creative ways that meet that State's particular needs.

An important element of the State Improvement Plan would be its tie to monitoring by the Office of Special Education Programs. States would be asked to show how their State-improvement strategies address deficiencies identified through monitoring, including insufficient numbers of trained personnel. Currently, there is no link among State comprehensive system of personnel development (CSPD) efforts, systems–change efforts, and monitoring findings. Requiring State Improvement Plans to address monitoring findings—and giving States resources to address problems—would create a continuous improvement feedback loop that could be a significant step in our efforts to improve implementation of IDEA.

Professional Development

Through the State Improvement Plan program, States would be given the tools and resources they need to address their needs for high–quality personnel. However, there remains the need for programs of national significance with broad applicability that will improve knowledge and practice so as to assist all States. There also remains a critical federal role for personnel preparation in two areas where shortages exist and States are less likely to support personnel-preparation activities: personnel to serve students with low–incidence disabilities and leadership personnel.

In response to these needs, a restructured IDEA professional development program would contain the following three elements: (1) national activities to support state–of–the–art teaching and learning practices and promote portability and cross–categorical approaches; (2) grants to colleges and universities, working in conjunction with a number of States, for increasing the supply and quality of personnel to work with students with low–incidence disabilities; and (3) activities to build the capacity of colleges and universities to ensure strong leadership in regular and special education administration and teacher preparation. Each is described in detail below.

(1) **National activities to leverage the professional development system and build capacity of institutions of higher education and State and local professional development programs and promote state–of–the–art practices**. This would be a general program for national activities such as development of exemplary measures of assessing teachers and other staff for licensure and certification; activities to promote cross–categorical approaches to teacher preparation, certification, and licensure; activities that promote portability of certification; and innovative personnel preparation projects.

(2) **Grants to institutions of higher education for increasing supply and quality of personnel working in low–incidence disability areas.** Students with significant disabilities often have particularly intensive needs and require specialized functional techniques. In many areas of the country, there are significant shortages of teachers, paraprofessionals, and related-services personnel qualified to provide early intervention services and to work with students with low–incidence disabilities—those disabilities such as deafness, blindness, deaf–blindness, significant cognitive impairment, and other impairments for which a small number of personnel with highly specialized skills and knowledge is necessary. However, the current federal program is not effectively meeting the need. There are now myriad separate grants supporting pre–service preparation for low–incidence personnel. Not only does the

geographical distribution of grants bear no relationship to the distribution of teacher shortages, but, also, most programs are extremely small—many with only one professor—and extremely expensive for universities to operate. And, since the incidence of children with particular disabilities is so low, few States have sufficient numbers of such children to justify a State effort to increase the number of personnel.

A restructured low–incidence pre–service program would flexibly meet State and regional needs for supporting the development and long–term support of high–quality programs. Elements of the program would include: (1) grants that would be fewer and larger in order to promote high–quality programs and to prepare personnel to be able to work with children with various disabilities (e.g., if a school has both a program for teachers of deaf and blind students, it can also prepare teachers of deaf–blind students); (2) grant applicants who would have to show how their program would meet the identified needs of one or more States and show that the States served intend to accept successful completion of the program as meeting State personnel standards; and (3) grants that would encourage portability of credentials by supporting programs whose graduates are qualified to work in a number of States.

(3) **Activities to develop the capacity of institutions of higher education to ensure strong leadership in regular and special education administration and teacher preparation.** An important element of the current Part D program is support for the development of special education leadership personnel, including teacher trainers, administrators, and researchers. In order to improve results for students with disabilities, this program would focus on ensuring that leadership personnel in both regular and special education have the skills and training necessary to contribute to an educational system that helps students with disabilities achieve to high standards. The new program would continue to provide scholarships and stipends, but would maximize their effectiveness in promoting effective innovation and improvement of pre–service training through giving preferences to institutions that have successfully integrated or are making progress toward integrating professional development of special education and general education personnel.

Research to Practice

This revamped program would support research, development, model demonstrations, outreach, dissemination and technical assistance for all disability categories across all age ranges, from early childhood to postsecondary education. It would support large–scale evaluations and assessments that have the potential to increase our knowledge significantly and improve the implementation of IDEA as well as smaller–scale research on issues of critical concern. Research would be informed by the field, systematically developed through demonstrations, and disseminated through outreach that is tightly linked to federal technical assistance efforts. Coordination with the research efforts of other federal agencies in order to reduce fragmentation and focus on cross–cutting issues such as transition and the delivery of related services would be a priority. Recognizing the low quality of current State–reported data, this program would support efforts to obtain improved data on the implementation of IDEA.

In the area of technical assistance, the new program would support regional technical assistance centers that provide States with assistance in linking to other federal and non-federal technical assistance resources, accessing information on research and best practices, and developing their IDEA State Improvement Plans. In addition, it would promote linkages to the 15 comprehensive technical assistance centers that are being established under the IASA in order to promote effective attention to disability issues by these centers, which will be assisting States in the implementation of the IASA. It would also support a continued role for clearinghouses and specialized technical assistance providers or activities to ensure that critical areas of national importance are addressed.

Developing the research, demonstration, dissemination and technical assistance strategies for all disability categories and age ranges as part of a unified planning process will encourage attention to the issues the field agrees are critical for improving results for children, will reduce overlap, gaps, and fragmentation; and will make research results more easily accessible by tightly linking research to technical assistance, technology, and professional development in order to improve the translation of research into practice around the nation. The broad–based planning process would ensure that cutting–edge areas such as evaluation and assessments that are critical to improving educational results would receive appropriate attention and support.

This program also would include continued support for demonstrating and disseminating strategies for addressing the needs of students with disabilities—including those who are deaf—in institutions of higher education throughout regional areas. Support for postsecondary programs serving students who are deaf would be maintained at the current funding level.

Finally, this program would require a national assessment of the implementation of IDEA in order to determine its impact and effectiveness. This assessment, which would be conducted in consultation with parents, teachers, researchers and others, would be the first since the enactment of IDEA. Gathering information from a variety of sources, the assessment would investigate key questions such as how well schools are doing to help students with disabilities meet challenging standards, to reduce dropout rates and to promote family involvement. This assessment would provide information that will be essential to improving services under IDEA and to developing future legislation to further strengthen the law.

Parent Training and Information

Family involvement in children's learning is a critical link to achieving a high–quality education. Three decades of research show that positive school–family partnerships can be built to inform and involve families in their children's learning. Studies show that all families can take concrete steps that significantly help their children succeed in school, regardless of income, education, or knowledge of the English language. Successful family involvement is not a sporadic activity, but something that happens daily at home and through schools and through the community.

The parent training program would build on the current law to ensure that parents of children with disabilities and teachers and other community members who work with those parents have the training and information they need to enable them to help children with disabilities reach challenging standards and developmental goals. The program would support both a Parent Training and Information Center in every State and a number of Community Parent Resource Centers that would assist parents to better understand the nature of their children's disabilities and their educational and early-intervention needs and to participate in decision–making processes, including the development of their child's IEP or, for infants and toddlers, their Individualized Family Service Plan. The Centers also would assist parents of students with disabilities to understand and be involved in education reform activities at the State and local levels.

Technology Development and Educational Media Services

Recognizing the importance of technology in improving educational results for students with disabilities and the increasing technological opportunities and challenges of our information age, this authority would support research on, and the development of, advanced technology, and promote the expanded use of existing technology, that will help improve early intervention and education services for children with disabilities. It would also address the educational needs of visually impaired, hearing impaired, and print–disabled individuals; and the general welfare of visually impaired and hearing impaired individuals through media.

B. IMPROVING WORKING RELATIONS BETWEEN FAMILIES AND SCHOOLS

Families are children's first and best teachers and their most important advocates. While IDEA creates a strong framework for family–school collaboration, more could be done to strengthen working relationships between families and schools. Building on current family training centers and heightening their focus on improving educational results for children are essential elements of our overall strategy. We believe that other key elements of an overall strategy include increasing involvement of families in decision-making, improving notice requirements, and reducing the adversarial nature of the complaint and hearing processes.

EVIDENCE THAT MEDIATION WORKS

- A substantial number of states have developed successful mediation systems to resolve family-school disputes quickly and effectively. Parents and school districts that engage in mediation report that mediation not only helped them to clarify and resolve their particular disagreements, but that mediation also helped them to work together better and to avoid future conflicts (Ahearn, E. M., 1994).
- California, for example, had 993 requests for mediation from 1991-1992. Only 14 percent of these cases went on to hearings. Massachusetts reports similar results as well. In 1992, only 15 percent of mediations went to hearings (Center for Dispute Resolution at McGeorge School of Law's Special Education Hearing Office: A Mediation Success Story. Undated. Sacramento, CA).
- California estimates that the cost of successful mediation is only 13 percent of the cost of the due process system; and based on the first two years of its mediation process, the Texas education agency estimated that the use of mediation in special education saved $5 million (Ahearn, E. M., 1994).
- When the Justice Center of Atlanta, nationally known for its expertise in mediation, studied the special education mediation program in Georgia, it asked parents and schools who had participated in mediation whether they would recommend mediation to others. Ninety percent of the parents and 99 percent of the schools said "yes" (Justice Center of Atlanta, Inc., Special Education Questionnaire, January, 1985 to June 1993. Special Education Questionnaire, January, 1985 to June 1993. Report from the Justice Center of Atlanta, Inc., to the Division for Exceptional Students, Georgia Department of Education. June 23, 1993. Atlanta, GA).
- A 1985 Massachusetts study found that parents participated more in mediation than was the case in due process hearings (Budoff, M. and Orenstein, A., 1985).

Current Barriers to Improved Family Involvement

Involvement of families in decisions about their child's education are at the heart of IDEA framework for family–school collaboration (Turnbull & Turnbull, 1986). While families are entitled by law to participate in IEP meetings in which decisions about services and the extent of participation in the regular education program are made, the current regulations permit a group other than the IEP team to make the placement decision—and this group need not include the parents. As a result, families are often excluded from fundamental decisions regarding the placement of their child.

Detailed notice to families of their rights is a critical safeguard, yet families often receive notice of their rights in a blizzard of overwhelming and duplicative notices written in confusing "legalese" (Lynch & Stein, 1982). Current law requires a full explanation of all rights every time families receive any notice. The IDEA reauthorization proposal would ensure that families receive all necessary information—in understandable language and format, and with appropriate frequency. Streamlined notice requirements could reduce the length of required notices by two-thirds while still retaining all the information parents need to make informed decisions.

The complaint and hearing processes are central to implementation of the law. Ideally, due process hearings should be a last resort when less adversarial methods of resolving differences have failed. Due process hearings generally are very costly in terms of time and financial resources, and severely strain families' and school personnel's emotional resources and good will (Kirp, Buss & Kuriloff, 1974; Kirp & Jensen, 1983). Moreover, our experience under IDEA indicates that due process—despite legally binding timelines—can, in practice, be a very lengthy process, during which student needs are not addressed. Many States have created mediation systems that have been extremely successful in resolving family–school disputes quickly and effectively (Ahearn, 1994). However, States are not required to offer mediation to families, and, in a number of States, families often have no opportunity to resolve disputes by mediation. Since low–income and minority families are less likely to use due process than other families (Goldberg & Kuriloff, 1991; Kirp & Jensen, 1983) in States that do not offer mediation, these families often have no accessible avenue for resolution of their concerns.

Support for families and teachers also means assistance in addressing the health and other needs of students. Many children with disabilities have significant health or social needs. And some children who are not yet identified as disabled can avoid needing special education if their problems are addressed early. Schools should not have to do this alone. So we are proposing that States and districts have the flexibility to use a percentage of their IDEA funds to help support the development of State or district–wide coordinated services systems to provide a comprehensive approach to meeting the educational, health, mental health, and social-service needs of children and their families through a community–wide partnership that links education with other public and private agencies.

We also are proposing that States take increased responsibility for ensuring that State health and social-service agencies fulfill their obligations to provide services to children with disabilities.

Our Proposals for Strengthening the Connection Between Families and Schools

- Require States to include parents in placement decisions (which, as under current law, could be made at the annual IEP meeting).
- Amend IDEA notice provisions to require that families receive notice of all basic procedural safeguards each time notice is currently required, or more often if they request it, and that they receive notice of specialized information whenever that information is relevant or is requested. Appendix A contains an example of what more effective notices might look like, given the current IDEA requirements, under our notice proposal.
- Require State agencies to offer mediation as an option for dispute resolution and require the school district to engage in mediation if the family wishes to mediate. Ensure that mediation cannot be used to delay or deny access to due process.
- Encourage the development of State and district–level systems of coordinated services, including building on interagency coordination of early intervention services already developed under Part H, by:

  (1) allowing States to use up to one percent of the total amount of the Part B State grant (to be taken from the State's twenty percent set-aside for State-level activities) to supplement other federal, State, and local funds for the development or implementation of a State–wide coordinated services system designed to improve results for preschool and school–aged children and their families, including children with disabilities and their families;

  (2) allowing school districts to use up to five percent of their Part B funds to supplement other federal, State, and local funds for the development or implementation of a coordinated services system. If a school district is already implementing a coordinated services project under the IASA, those efforts would be coordinated; and

  (3) asking State educational agencies to develop mechanisms, such as interagency agreements with other relevant State agencies, to address the assignment of financial responsibility for the provision of services to children with disabilities. Moreover, each State would be asked to ensure the effective implementation of these interagency agreements.

PRINCIPLE V

Focus on Teaching and Learning

Under our proposals:

- school and school district paperwork requirements are reduced, leaving more resources for the academic mission;
- program administration is simplified and costs are reduced by streamlined data-collection requirements;
- there is increased accountability for student performance rather than just paper compliance; and
- school administrators have the tools they need to ensure safe and disciplined schools while the rights of students with disabilities are maintained.

Fundamentally, what happens every school day in the classroom is at the heart of successful implementation of IDEA. As much as possible, unnecessary requirements or other distractions from teaching and learning should be eliminated so that students, parents, teachers and administrators can focus on improving results for students.

Directing Resources to Teaching and Learning

Over the past twenty years, the implementation of IDEA has focused primarily on process without sufficient attention to educational results for children with disabilities. Too often the fundamental purpose of the law is lost—access to education and improved educational results, not just access to a place or service termed "special education."

It will be far more difficult to achieve the significant improvements embodied in the other four principles without accompanying changes in how States and local communities focus their attention and use their resources. IDEA reauthorization must maximize the extent to which special education resources are devoted to teaching and learning of children with disabilities and must promote a greater focus on quality and results and eliminate instructionally irrelevant activities and unnecessary paperwork.

We propose several significant changes to increase the focus on teaching and learning. The first, and most critical, are the improvements to the evaluation and IEP processes that are discussed above. In the IEP, new attention to access to the general curriculum and State assessments will help ensure a focus on educational results. The replacement of short-term objectives with meaningful annual objectives and regular

reporting to the parents on the child's progress toward those objectives will eliminate a paperwork requirement that most agree has limited educational value and is a significant burden on teachers. These improvements in the IEP would be supported by our proposals for eligibility and evaluation. These will promote reduced labeling of children, permitting the considerable resources that are now used to determine the appropriate diagnostic label to be devoted to instructionally relevant evaluation of the child's disability and need for special education. And they will promote useful, functional analyses, so that the time and resources of teachers and school psychologists are devoted to activities designed to support higher achievement rather than to the administration of tests that have little relation to the student's instruction or academic progress.

Other changes that will increase the focus on results while reducing paperwork are relaxing the fiscal tracking requirements, which will promote appropriate services in the regular classroom while eliminating burdensome paperwork, and streamlining notice requirements to provide better information to parents while reducing the length of notices. Promoting mediation as a method of dispute resolution also will help to focus resources on teaching and learning. If families and schools can resolve their disputes quickly and effectively through mediation, the heavy financial and emotional cost of due process can be avoided.

In addition to these new strategies, several other areas are of concern if we are to better focus resources on teaching and learning. One critical area is State and local planning. To create an education system that enables all children to reach high standards, regular education and special education must plan together to ensure high expectations, and appropriate professional development, funding, instructional strategies, and classroom configurations. Currently, IDEA State and local Part B applications provide assurances that the States and districts are in compliance with Part B requirements and procedures. They do not focus on results; they do not encourage comprehensive planning for special education, much less alignment between special and regular education; and they drain State and local resources that could be better used. The Office of Special Education Programs routinely receives large boxes containing copies of every State policy and procedure concerning special education from States. But the Office of Special Education Programs rarely receives — because the State plan requirements do not ask for — thoughtful plans describing the results children with disabilities are achieving and how the State intends to improve results in the context of its overall education reforms.

Another critical area is data collection. The existence of accurate, usable data about the implementation of IDEA is critical to continuously improving results. While many of the data-collection requirements of the law have yielded significant information that assists States, schools, and the federal government to better implement the law, a few of the requirements create significant burden while yielding data of questionable utility and accuracy. For example, currently States must report the number of children served by disability category. However, because each State develops its own definitions, within statutory parameters, the data is not comparable from State to State. Similarly, the requirement that States

develop precise estimates of future shortages and future supply of personnel imposes on States a difficult task and generates inaccurate data that is used only to meet the federal reporting requirements.

Finally, it is essential that we shift accountability to focus on results and the success of efforts to improve results. This means that States, districts, and schools must be held accountable for what really matters—the achievement of children. Under current law, we too often hold educators responsible for filling in forms and filing papers, and we seldom ask them to show to the Department or to parents and the general public whether children are learning. We have learned from advances in a variety of fields that there are several types of accountability and methods of ensuring accountability that can support—rather than detract from—more effective educational services under IDEA.

Effective accountability for results requires understanding how children are doing, revising their programs to address lack of expected progress, and holding States, school districts and schools accountable for these results. Under current law, the IEP process and the due process protections embedded in IDEA are important assurances of accountability for required services. Our proposals will add to this a focus on quality and results. We are already taking steps in this direction. The Office of Special Education Programs has embarked on a multi–year effort to focus its monitoring on student achievement. Already, many States have responded positively to this new approach—saying that for the first time the Department is monitoring what really matters and that monitoring is helping them do their jobs better and not getting in the way.

Our new proposals focus on results—for individual children and for school systems. For each child, the IEP would focus on elements essential to achievement, including measurable annual objectives and access to the general curriculum. The parents would be informed regularly of the student's progress toward the annual objectives. Each year, the school determines whether the annual objectives have been achieved—and revises the child's program to address lack of expected progress. And, under the new provisions for re-evaluations, schools would be responsible for a more in–depth review of the student's educational needs and progress every three years.

While the individual progress of each child is the ultimate goal, it is also critical for children with disabilities to be included in overall accountability measures and for parents and educators to know how well each State is doing in improving results for students with disabilities. Our proposal for including students in the State and district general assessments—and publicly reporting on the results of those assessments for all children with disabilities—will help to ensure this. In addition, each State will establish goals for the performance of students with disabilities and report every two years on progress toward those goals. Moreover, States that choose to develop State Improvement Plans will receive additional resources to analyze student performance—including graduation rates and performance on State assessments—and describe how they will make progress toward their performance goals. As part of their plan, they will show how they will hold school districts and schools accountable for

academic progress of children with disabilities, how they will provide high–quality technical assistance to school districts and schools to improve results for children with disabilities, and what they will do to assist the school districts whose students are furthest behind. Every two years, these States would analyze their progress and change their efforts under their State Improvement Plans accordingly.

Our Proposals To Reduce Paperwork and Increase the Focus on Results

- **Streamline data-collection requirements to eliminate requirements** that are unnecessarily burdensome or do not provide information that is helpful to schools and States. Where appropriate, conduct special studies that collect data to help improve the implementation of IDEA.
- While retaining necessary attention to procedural compliance, eliminate the requirement that States submit to the federal government and that school districts submit to the States detailed policies and procedures every three years. Instead, States and districts would submit the information once and then make new submissions only when the policies and procedures have changed. In addition, the information that must be submitted would be streamlined.
- Increased focus on and accountability for results through inclusion in assessments, strengthened IEP process, State performance goals and the State Improvement Plan.

Ensuring Safe and Disciplined Schools

For teachers, administrators, students, and families to focus on teaching and learning, the schools they are in must be safe and disciplined. Little teaching and learning can take place in schools where teachers or students fear for their well–being. Today's schools are facing new challenges. Twenty years ago, children fought with their fists; today they use guns. All parents want schools that are havens of order and safety for their children—both disabled and non-disabled.

Of course, prevention is the best approach to discipline problems—whether the child is disabled or non-disabled. There are many schools that have learned how to prevent violent and disruptive behavior through a variety of strategies, including early identification of learning problems, consistent application of rules, teaching students how to resolve conflicts peacefully, and ensuring that students get the supports and instruction they need to be able to understand the classroom materials and work at their own pace. In addition, effective behavioral management techniques being used in some schools are helping to prevent discipline problems and enabling children with emotional disabilities to take responsibility for their behavior. One promising approach is the use of behavior management plans based on careful assessment of the causes and reasons for the

student's troublesome behavior. A focus on prevention is critical to help keep children in school and subsequently keep them off the streets, out of the juvenile justice system, and in the workforce as productive adults.

Unfortunately, prevention is not always effective and there are times when schools must take additional steps to maintain safe and disciplined schools. Under the current law, teachers and schools can do a great deal to address the misconduct of disabled students—from temporary suspensions, to alternative placements, to long–term expulsions when the child's misconduct is not related to his or her disability. If a child poses a substantial danger to himself or to others and the parent will not agree to allow the school to move the child to a different placement, the school may go to court to seek immediate removal of the child. In addition, under a provision added to IDEA last year, a school can immediately remove the child from the classroom for up to 45 calendar days when the child brings a gun to school. During that period, the parents and school can work together to devise an appropriate placement and program for the child, or, if the parent and school cannot agree, they can resolve their dispute through mediation, where it is available, or due process.

While the current law gives schools and teachers a number of options for disciplining students, there are still additional situations in which schools need to be able to act quickly to remove a dangerous student from the classroom. We suggest two sensible provisions that will help schools maintain safe classrooms but will also recognize the importance of protections for children with disabilities and their families. Historically, many students with disabilities were labeled "difficult to handle" and routinely suspended or even permanently expelled from school. IDEA was enacted, in part, to help ensure that students were not excluded from school for conduct that related to their disability.

Our Proposals To Help Ensure Safe and Disciplined Classrooms

- Extend the current provision that schools may immediately remove a child from the classroom and place in an alternative setting for up to calendar 45 days when the child brings a gun to school, to cover other dangerous weapons such as knives. This will permit schools to combat the threat of weapons in the classroom.
- Provide schools with a swift method of removing from the classroom students who are a substantial danger to themselves or others. Currently, except in the case of a suspension of up to 10 days, if the child's parents object to the removal, the child must stay in his or her current placement until the dispute is resolved, unless the school district goes to court and obtains a temporary restraining order permitting it to remove the child. Our proposal would permit schools to go to hearing officers—officials who already exist in every State to address special education issues—to obtain a quick decision about whether a child is dangerous and may be removed from the classroom for 45 days pending a final decision.

HOW TWO SCHOOLS ARE HELPING STUDENTS WITH EMOTIONAL AND BEHAVIORAL PROBLEMS TO SUCCEED

The Babock Middle School and the Westerly High School in Westerly, Rhode Island, are examples of the many schools that have succeeded in effectively educating students with emotional and behavioral problems in regular educational settings. Teachers and administrators at Babock and Westerly say that the keys to their success have been their high expectations for the learning and appropriate behavior of all the students in the schools and their close collaboration with families as they develop and use their new approaches.

At Babock and Westerly, every student and teacher knows the rules they are expected to follow, including: come to class prepared; and share materials and take turns. To help students with emotional and behavioral problems learn how to control their own behavior and abide by these rules, teachers, school psychologists, social workers, and special educators with backgrounds in behavior management work together closely. Each school has a planning room where all students can get emotional support, extra help with school work, do their homework in a quiet setting, or do problem-solving on a computer. A special education teacher with training in behavior management supervises the planning room and tutors students in areas where they need help—whether it's writing a term paper, or how to request assistance from their classroom teacher without disturbing the other students. When a student needs additional help, such as community mental health services, the planning room teacher can help the family find support the student needs—and even make appointments for them.

For each student with emotional and behavioral problems, an IEP team—which includes the student, the student's family, the student's general and special education teachers, and the school psychologist or social worker—develops an individual behavior management plan. The plan establishes clear expectations about appropriate behavior and might provide the following specifics: that the student spend an hour at the end of each day in the planning room for extra help; that the student work in a small group with a school psychologist for one hour a week to learn how to manage anger appropriately; that the student can go on special field trips if he or she meets behavior expectations; and that the student can refer him or herself to the planning room when they need a "timeout" from the classroom. The team monitors the student's behavior regularly, and if it is not satisfactory, the team may change the plan during the school year.

When students are disruptive, these schools use several approaches to maintain order. First, they provide rewards for good behavior. If that does not work, they impose consequences such as extra homework assignments. If this does not succeed, they work with the student's family to impose planned consequences at home, such as limiting television viewing. If these are unsuccessful, the schools may use in-school suspension, or, if the problem persists, the IEP team will review and change the IEP or use a creative approach to suspension such as having the student engage in supervised community-service work.

Classrooms also are organized in a way that helps all students to learn. General and special educators often team-teach classes; one teacher can concentrate on presenting new materials to the class, while the other can work with individual students who need extra help. Ongoing and intensive professional development has been important in making team-teaching successful and in helping teachers learn the specific strategies for working with students with behavioral problems. For example, team-teachers and the school psychologists and social workers participate in three-day summer institutes where they work intensively together to plan curriculum and behavior management strategies for the following year.

Babock and Westerly began implementing these strategies for working with students who have emotional and behavioral problems in 1991. Parents of two such children worked with Westerly to develop and implement a plan to educate their children in their neighborhood schools. The funding that had been used to support these students in separate schools supported the creation of planning rooms—that helped two students and many others.

As a result of these new ways of working, Babock and Westerly have been able to improve the grades, achievement, and attendance of students with emotional and behavioral problems. At the same time, they have decreased disciplinary referrals and created a community of students, families, and teachers that promotes high expectations and learning challenging academic materials.

PRINCIPLE VI

Strengthen Early Intervention to Help Ensure that Every Child Starts School Ready to Learn

Under our proposals:

- infants and toddlers who are at risk of developmental delay will be more likely to receive services under the Part H comprehensive system for early intervention because States will be able to provide at-risk infants and toddlers with service coordination without having to provide a full array of Part H services;
- less variation may exist from State to State in the definition of "developmental delay" as a result of the recommendations of a panel of experts convened to propose a definition of the term; and
- coordination of preschool programs with the IDEA school-aged programs is improved.

Children grow and develop most rapidly in the early years of life, setting the foundation for later social, emotional, and intellectual competence. Learning begins at birth and involves a constant interaction between the child, the family, the community, and the environment.

A child with a disability, or at risk of developing a disability, is often more limited in his or her ability to interact with the world around him. However, through early intervention and preschool services, problems or potential risks can be identified and the family's ability to minimize and manage the child's special needs can be strengthened. Early intervention has clear benefits for children and for families: it not only assists the child to participate fully in his or her family and community, but it also can prevent further developmental limitations and secondary disability (see Guralnick, M. J., & Bennett, F. C., 1987).

Recognizing the importance of starting early, IDEA has long supported preschool programs for children with disabilities. Today, about 500,000 children with disabilities ages 3 through 5 are served by preschool programs supported by IDEA. In 1986, Congress expanded support for early intervention by creating the Infants and Toddlers with Disabilities Program, authorized under Part H, which promotes a comprehensive approach to meeting the needs of infants and toddlers with

disabilities. Today, about 150,000 infants and toddlers aged birth through 2 and their families are receiving early intervention services under Part H.

The IDEA preschool program is authorized under Part B. Under our proposal, we would retain separate funding for preschool grants. The programs would benefit from many of the improvements we are suggesting in Part B, including the setting of goals and performance indicators for children ages 3 through 5 by the States, and reduction of unnecessary paperwork. For example, States would only have to submit a single application for pre–school and school–aged programs for children with disabilities instead of two, as is currently the practice. Moreover, States would be permitted to combine administrative funds available under the two Part B programs in order to improve program implementation and improve transitions from preschool to school.

The Part H program provides States with the opportunity to expand and improve early intervention services to infants and toddlers, from birth through age three, and their families. Under Part H, each State designs an interagency system of services reflecting the unique characteristics of that State to meet the developmental needs of infants and toddlers with disabilities. In a typical State, more than half-a-dozen State agencies participate in the financing and delivery of early intervention services under the Part H umbrella (Clifford, 1991; Clifford, Bernier, & Harbin, 1993). Families are integrally involved in the design and implementation of each child's services.

Increasingly, research is showing the developmental and financial benefits of empowering families and children through early intervention. Children with developmental delays who receive early intervention are showing increased social competence when they enter preschool, as compared to those who do not receive early child and family supports (Casto, G., & Mastropieri, M. A., 1986; Shonkoff, J. P., Hauser–Cram, P., & Upshur, C., 1990). In addition, States are reporting positive benefit–cost ratios and future savings for every dollar spent in early intervention because fewer future services are needed, including institutional services (Barnett & Escobar, 1990).

While States have made tremendous progress in implementing their Statewide systems under Part H, there remain at least two major challenges. The first challenge is to ensure that all infants and toddlers with disabilities are receiving services (Harbin, Gallagher, & Terry, 1991). Under current law, States must serve infants and toddlers who have diagnosed physical or mental conditions that have a high likelihood of resulting in delay; and infants and toddlers who experience a delay in one or more developmental domains. States also may provide services to infants and toddlers at risk of developing delays.

In implementing Part H, each State has created its own definition of developmental delay. Therefore, great variation in eligibility exists across the country. Infants and toddlers with significant developmental delays are not eligible under some State definitions for the benefits of Part H services. As a result, children with more mild disabilities, who could benefit from services, may go unserved until they begin school. Many parents and professionals have expressed concern that this situation may lead to under–identifying infants and toddlers with disabilities and their families who could clearly benefit.

The second challenge is to support the prevention of developmental delays by expanding the inclusion of at–risk infants and toddlers within the Part H comprehensive system of services. Currently, States have the option to define and serve infants and toddlers at–risk of developmental delay as part of their eligible population. However, if they choose to serve at–risk infants and toddlers, the State must provide them with a full array of early intervention services. That is, each eligible at–risk infant and toddler is entitled to every early intervention service which he or she needs. Because the States have no flexibility in deciding which services they will make available to the population of at–risk infants and toddlers, few States have chosen to serve at–risk children under the Part H program.

While research has demonstrated that infants and toddlers whose delays are less significant make substantial gains from early intervention (Ramey, Bryant, Wasik, Sparling, Fendt, & LaVange, 1992), experience suggests that the full array of services offered under Part H may be more than is necessary for meaningful intervention. Service coordination and referral to other public or community–based programs historically serving this population, such as Head Start, Maternal and Child Health, and other public and private programs, can offer children at risk of disability and their families significant benefits.

Our Proposals To Improve Early Intervention and Preschool Programs

- Streamline and better coordinate administration of the preschool programs with IDEA school–aged programs by reducing application and data-reporting requirements and permitting flexibility in use of administrative funds under the two Part B programs.
- Require the Federal Interagency Coordinating Council (FICC) to convene a panel of experts to develop recommendations to the Secretary of Education for a national definition of the term "developmental delay." After receiving the panel's recommendations, the Secretary could propose a definition of "developmental delay" or provide guidance to the States on this issue.

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- Permit States to serve infants and toddlers at risk of developmental delay with less than the full array of services, so long as they provide at least service coordination. If, at any point, a child is determined to be a child with a disability under the State's definition, the child and family would have access to the full range of services. In order to ensure that infants and toddlers who meet the State definition of disability or developmental delay receive the full array of services to which they are entitled, every six months the State would review the child's development to determine whether his or her status had changed from "at–risk" to "disabled" or "developmentally delayed."

APPENDIX A:

Proposal to Improve Notice Requirements

Under current law, parents must receive prior written notice whenever a school district proposes or refuses to initiate or change the identification, evaluation, educational placement or the provision of a free appropriate public education to a child with disabilities. This would also be the case under our proposal. However, we propose to simplify the contents of that notice, while ensuring that parents receive more specific information about the procedural safeguards of Part B when they need that information and whenever they ask for it.

Under our proposal, parents would get a basic notice which includes the same information as is currently required, with two exceptions. First, the notice would inform parents that detailed information about access to educational records will be provided to parents whenever they ask for it, rather than including pages of details on this topic in every notice. Second, the basic notice would summarize procedural safeguards relating to due process hearings, state-level reviews (if applicable in the state), civil actions and attorneys' fees, and inform parents that a full explanation of these procedural safeguards will be provided whenever parents request it and whenever a hearing is initiated.

Below are samples of both the basic notice and the more specific notice on procedural safeguards that we envision under our proposal. No state or school district would be required to use these notices; but they are examples of what a clear and useful notice might look like under our proposal.[1]

[1] It should be noted that the sample notices below reflect these proposals for a new notice system for a state with a state-level hearing process using the procedural safeguards of current law. (This means, for example, that mediation, which would be covered under our proposal, is not mentioned.)

BEST COPY AVAILABLE

Your Rights as a Parent of a Child with a Disability

(One Tier)

Your Right to Receive Written Notice

Your school district must provide you with prior written notice each time it proposes or refuses to initiate or change the identification, evaluation, or educational placement of your child or the provision of a free appropriate public education to the child.

The notice must include:

1. A full explanation of all of the procedural safeguards available to you.

2. A description of the action proposed or refused by the district, an explanation of why the agency proposes or refuses to take the action, and a description of any options the district considered and the reasons why those options were rejected.

3. A description of each evaluation procedure, test, record, or report the district uses as a basis for the proposal or refusal; and

4. A description of any other factors which are relevant to the district's proposal or refusal.

The notice must be written in language that the general public can understand, and provided in your native language or other mode of communication, unless it is clearly not feasible to do so.

Your Right to Consent

Your district must obtain your consent before conducting a pre-placement evaluation or initial placement of your child in a program providing special education and related services. Except for pre-placement evaluation and initial placement, consent may not be required as a condition of any benefit to you or your child. Your State may require parental consent for other services and activities, if it establishes and implements effective procedures to ensure that a parent's refusal to consent does not result in a failure to provide the child with a free appropriate public education.

When your district obtains your consent: you must be fully informed of all information relevant to the activity for which consent is sought, in your native language or other mode of communication; you must understand and agree in writing to the carrying out of the activity for which your consent is sought, and the consent must describe that activity and list the records (if any) that will be released and to whom; and you must understand that the granting of consent is voluntary on your part and may be revoked at any time.

Your Right to Obtain an Independent Educational Evaluation

As explained here, you have the right to obtain an independent educational evaluation of your child.

You have the right to an independent educational evaluation, conducted by a qualified examiner who is not employed by your district, at public expense, if you disagree with an evaluation obtained by your district. However, your district may initiate a due process hearing to show that its evaluation is appropriate. If the final decision is that the evaluation is appropriate, you still have the right to an independent educational evaluation, but not at public expense. If the parent obtains an independent educational evaluation at private expense, the results of the evaluation must be considered by your district in any decision made with respect to the provision of a free appropriate public education to your child, and may be presented as evidence at a due process hearing regarding your child.

If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

Your district must provide you, on request, information about where an independent educational evaluation may be obtained.

Whenever an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria which the district uses when it initiates an evaluation.

INITIATING A HEARING

You or your district may initiate a hearing regarding the district's proposal or refusal to initiate or change the identification, evaluation, or educational placement of your child or the provision of a free appropriate public education to your child. The State educational agency is responsible for conducting the hearing.

The Hearing Officer

A hearing may not be conducted by an employee of a public agency involved in the education or care of your child, or by any person having a personal or professional interest that would conflict with his or her objectivity in the hearing. (A person who otherwise qualifies to conduct a hearing is not an employee of an agency solely because he or she is paid by the agency to serve as a hearing officer.) The State educational agency must keep a list of persons who serve as hearing officers, including a statement of the qualifications of each of those persons.

Hearing Rights

You and the district have the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities. Your district must inform you of any free or low-cost legal and other relevant services available in the area if you request the information or you or the district initiate a due process hearing.

2. Present evidence and confront, cross-examine, and compel the attendance of witnesses.

3. Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing.

4. Obtain a written or electronic verbatim record of the hearing.

5. Obtain written findings of fact and decisions.

You have the right to have your child present, and to open the hearing to the public. The hearing must be conducted at a time and place which is reasonably convenient to you and your child.

The Hearing Decision

A final hearing decision must be reached and mailed to the district and you within 45 days after the receipt of a request for a hearing, unless the hearing officer grants a specific extension at the request of either party. The decision in a due process hearing is final, unless the district or you appeal the decision by filing a civil action in State or Federal court. You must be given a full explanation of your specific rights in appeals to court whenever the district or you initiate a hearing or upon your request.

Your Child's Program and Placement While You are Waiting for the Hearing and Court Decisions

During the pendency of any administrative or judicial proceeding regarding a complaint, unless you and your district agree otherwise, your child must remain in his or her present educational placement.

If the hearing involves an application for initial admission to public school, your child, with your consent, must be placed in the public school program until the completion of all the proceedings.

If your child brings a firearm to school, your child may be placed in an interim alternative educational setting, in accordance with State law, for up to 45 calendar days. If you initiate a due process hearing during this time, your child remains in this interim placement during the hearing and any subsequent authorized administrative or court proceeding, unless you and the district can agree on an interim placement for your child. However, your child's placement cannot be changed until the IEP team is convened and determines the interim placement for your child. The participants on the team making this interim placement determination must include you, your child's teacher, an agency representative qualified to provide or supervise the provision of special education, and your child, if determined appropriate.

Attorneys' Fees

The court may award reasonable attorneys' fees to you if you are the prevailing party in the due process proceedings.

Access to Records

Your district must permit you to inspect and review any education records relating to your child's educational identification, evaluation, program or placement. The district must comply with your request without unnecessary delay and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of your child, and in no case more than 45 days after the request has been made. You have additional specific rights regarding access to your child's educational records and the accuracy of those records; your school district must provide you with a written explanation of those rights upon your request.

Your Due Process Rights as the Parent of a Child with a Disability

(One Tier)

INITIATING A HEARING

You or your district may initiate a hearing regarding the district's proposal or refusal to initiate or change the identification, evaluation, or educational placement of your child or the provision of a free appropriate public education to your child. The State educational agency is responsible for conducting the hearing.

The Hearing Officer

A hearing may not be conducted by an employee of a public agency involved in the education or care of your child, or by any person having a personal or professional interest which would conflict with his or her objectivity in the hearing. (A person who otherwise qualifies to conduct a hearing is not an employee of an agency solely because he or she is paid by the agency to serve as a hearing officer.)

The State educational agency must keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.

Hearing Rights

You and the district have the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities. Your district must inform you of any free or low-cost legal and other relevant services available in the area if you request the information or you or the district initiate a due process hearing.
2. Present evidence and confront, cross-examine, and compel the attendance of witnesses.
3. Prohibit the introduction of any evidence at the hearing that has not been disclosed to you or the district at least five days before the hearing.
4. Obtain a written or electronic verbatim record of the hearing.
5. Obtain written findings of fact and decisions.

You have the right to have your child present, and to open the hearing to the public. The hearing must be conducted at a time and place which is reasonably convenient to you and your child.

The Hearing Decision

A final hearing decision must be mailed to the district and to you within 45 days after the receipt of a request for a hearing, unless the hearing officer grants a specific extension at the request of either party.

The hearing officer's decision is final, unless the district or you appeals the decision by filing a civil action in State or Federal court.

Civil Action

The district and you each have the right to appeal the review decision by filing a civil action in State or Federal Court.

Your Child's Program and Placement While You are Waiting for the Hearing and Court Decisions

During the pendency of the hearing or civil action, unless you and your district agree otherwise, your child must remain in his or her present educational placement.

If the hearing involves an application for initial admission to public school, your child, with your consent, must be placed in the public school program until the completion of all of the proceedings.

If your child brings a firearm to school, your child may be placed in an interim alternative educational setting, in accordance with State law, for up to 45 calendar days. If you initiate a due process hearing during this time, your child remains in this interim placement during the hearing and any subsequent authorized administrative or court proceeding, unless you and the district can agree on an interim placement for your child. However, your child's placement cannot be changed until the IEP team is convened and determines the interim placement for your child. The participants on the team making this interim placement determination must include you, your child's teacher, an agency representative qualified to provide or supervise the provision of special education, and your child, if determined appropriate.

Attorneys' Fees

The court may award reasonable attorneys' fees to you if you are the prevailing party in the due process proceeding.

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U.S. GOVERNMENT PRINTING OFFICE 1995 399-370/40166

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Mr. Mason notices that a student has sharpened his pencil several times in the last few minutes — and bumped into other students while doing it. The second teacher, Ms. Stafford, notices this, too, so she walks over, looks at the student's work, and asks him about the assignment. While not obvious to Mr. Mason, this child has been diagnosed with Attention Deficit Disorder (ADD).

Ms. Stafford keeps tabs on the boy, and he stays on task for the remainder of the class, right through clean-up time. As the bell rings and class is dismissed, Mr. Mason is pleased at how well students seem to be doing.

As the children leave, Ms. Stafford gathers up some records from her desk and she and Mr. Mason walk toward the principal's conference room.

"Johnny's been talking about how great your class is," Mr. Mason says. "He's finally excited about school."

"We've learned a lot about teaching children with disabilities, these past few years. Last year our school developed an improvement plan for the whole school. We identified study skills and learning strategies as something all our kids need. Along with a number of regular classroom teachers in the school, I went to a national institute last summer and learned how all our teachers could incorporate this into instruction.

"The principal made arrangements for the researcher to serve as our school's 'coach' to help us," continued Ms. Stafford. "Several of us are 'talking' on the Internet with the researcher and his colleagues — and with other teachers who participated in the institute. We're sharing techniques and activities and helping each other deal with problems that come up."

"It's obviously working," says Mr. Mason as they enter the conference room. The IEP team members are seated around the table, including Mr. Taylor, Johnny's regular education teacher, whom he's especially pleased to see there.

"Well, let's get started," says Ms. Stafford. "I'm glad to see everyone here. Johnny's making great progress this year. He's performing at grade level in language arts. I think he's going to do well on the district-wide writing assessment next month. Let's review what's worked for Johnny this past year, so we can figure out next year's program."

The team looks at the portfolio of Johnny's writing and other work, discussing his progress and areas that need attention. The teachers seem particularly pleased with the way Johnny now takes an idea and develops it, and how well organized his essays are. The teachers believe the study skills lessons should continue next year to ensure steady progress. They also want him to learn to type and begin using a word processor to write.

The team looks at Johnny's work in other subject areas, and from that, they develop measurable annual objectives for each subject. They conclude the meeting by agreeing that Johnny should continue instruction in the regular classroom with support from the special education teacher and that Mr. Mason will receive monthly reports on Johnny's progress toward meeting the objectives in his IEP.

Mr. Mason leaves the meeting thinking about how different this meeting was from those of previous years. The focus was on Johnny learning the same things as other students. Teachers are expecting him to reach the same high standards as the other fifth graders. And they're full of ideas about how to help him do so, while tailoring instruction to his educational needs. Mr. Mason is more hopeful than he can ever remember being, about Johnny, his education, and his future.

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